

(From 8/17/17
Ann Morgan)

Guilty? Of What?

Oakley Johnson
Ann Livingston
Speeches before the jury in
connection with the
trial of

C. E. RUTHENBERG

ALFRED WAGENKNECHT

CHARLES BAKER

1. Speech made at anti-war meeting, Public Square, Cleveland, May 20, by Charles Baker, as repeated before the jury.
2. Speech made at anti-war meeting, Public Square, Cleveland, May 27, by C. E. Ruthenberg, as repeated before the jury.
3. Argument by Joseph W. Sharts and Morris H. Wolf, attorneys for the defense, and Edward S. Wertz, District Attorney, and Joseph C. Breintenstein, Assistant District Attorney.
4. A Final Word by Alfred Wagenknecht.

D.C.

"I am not conscious of having committed any crime. The thing that I am conscious of is having endeavored to inspire higher ideals and nobler lives. If to do that is a crime in the eyes of the government, I am proud to have committed that crime."—Statement to Judge Westenhaver by C. E. Ruthenberg when asked whether he had anything to say before sentence was passed.

Federal
District





We would rather rot in Canton jail than murder our fellow humans for the profit of the capitalist class.

Ruthenberg - Wagenknecht - Baker

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August, 1917

Cleveland, Ohio

Published by Ohio Socialist Party
State Office, Edited by
Alfred Wagenknecht.

(See Cleveland Citizen, Aug. 11, 1917, p. 2)



PREFACE.

C. E. Ruthenberg, Socialist Candidate for Mayor, Alfred Wagenknecht, State Secretary of the Socialist Party and Charles Baker, State Organizer of the Socialist Party, have been sentenced to serve a year in Canton jail by Federal Judge Westenhaver. This is what they are guilty of: Having as Socialists declared before the beginning of the present war, that all modern wars are the product of the profit system, they dared show by facts and argument that the war this country is engaged in is a struggle over the commercial interests and property rights of the capitalist class.

They dared speak the truth and declare that the claim that we are fighting for "democracy" was mere hypocrisy used to trick and delude the people.

They dared point out that the present administration had secured re-election by appealing for support because it had "kept us out of war" (a war for democracy it now calls it) and after its re-election had hurled us into the war against our will to fight for the profits of the capitalist class.

They dared denounce the conscription law as the rape of democracy in this country and to demand its repeal.

They dared pledge themselves to the principles of fraternity and brotherhood toward all people no matter what their race or nationality and to pledge themselves to refuse to murder their fellow human beings to preserve the profits and investments of the capitalist class of this country.

And because a certain Alphonse Schue failed to register

for conscription and when caught, in order to save himself from punishment, said he had heard the speeches of these three men and on account of these speeches had not registered, C. E. Ruthenberg, Alfred Wagenknecht and Charles Baker are sentenced to serve a year in Canton jail.

They are not under jail sentence because Schue did not register, but because the ruling class wants to stop further truth telling about the evil motives behind the war in which the lives of the youth of the nation are to be sacrificed. Schue is merely the excuse, the tool, through which these men are to be stopped from working for socialism, peace and democracy.

HOW THEY WERE CONVICTED

"It will be all over by Wednesday noon." That was the statement issued from the district attorney's office on Tuesday about the trial which was to begin Wednesday morning.

Given a judge against whose appointment organized labor had entered a strong protest, a venire of jurymen to pick from which had been selected by a Democratic clerk and a Republican jury commissioner, and the ground for this confidence of quick action becomes clear.

When the panel of jurymen marched into the jury box, the basis for the confidence of quick conviction expressed by the district attorney's office, before the trial began, became still clearer.

The jury commissioners had found, not one, but a dozen Rip Van Winkles. There wasn't a young man among them. Their ages ran from about sixty to eighty-five. They had never read socialist literature. They did not know any Socialists. One of them said he never read any magazines. They were retired farmers, retired petty business men and retired policemen and public officials.

When the attorneys for the defense succeeded in getting one of these Rip Van Winkles excused because of prejudice, there marched in to take the place of a Rip Van Winkle who had slept twenty years a Rip Van Winkle who had slept forty years.

One "young man" of fifty-four did get into the jury box but the district attorney got rid of him quick by challenging him "without cause."

Naturally these men, wedded to the past, could not grasp the ideals of men who dared to stand for peace and brotherhood against war and wholesale murder and who were fighting to build a new society in which the horrors of war would be ended forever.

They could not understand their effort to abolish the profit system, which is responsible for war, and their fight to establish ownership by the people of the industries.

It needed only a few blustering, spread-eagle phrases from the district attorney to get a conviction from such a jury.

The case has been appealed to the Supreme Court of the United States, and the men are still fighting for SOCIALISM, PEACE AND DEMOCRACY. The appeal is being made on over fifty exceptions taken by the defense to rulings made by Judge Westenhaver during the progress of the trial.



SPEECH BY CHARLES BAKER.

The Witness: That is what I was going to do. I stated that I did not deliver the entire lecture and it would not be necessary to give it all to you, as you wanted just what I remembered of what I said at this particular meeting.

I took up and showed the economic cause of the world war and the concentration of wealth in the United States. I showed that the world war has been caused by the expanding of commercialism, the development of industry. I quoted the statement of Abraham Lincoln, made fifty years ago, to the effect that he saw in the near future a crisis approaching which caused him to tremble for the safety of his country, a crisis in which the wealth of the nation had become concentrated or would become concentrated in the hands of a few individuals, and through this concentration of wealth the great bulk of the American people would bow down on their knees and worship the god of Mammon.

Then I quoted the report of the United States Industrial Relations Commission, which gives the latest statistics on the concentration of wealth, and showed on page 33 of the report of Basil M. Manley, Secretary of the United States Industrial Relations Commission, that he states the wealth in America today had become concentrated to such an extent that 2 per cent of the people of America owned and controlled 60 per cent of the wealth, and 33 per cent of the population of America owned and controlled

35 per cent of the wealth, and the remaining 65 per cent of the population of America only owned and controlled 5 per cent of the wealth.

Then I went on to show what had caused this concentration of wealth, namely, the private ownership of the means of life, the tools of production and distribution, the mills, the mines, the factories, and the railroads and the natural mineral rights of the nation, which the socialist movement claims have been placed here by the Creator or by Nature as a blessing to all mankind; that through some method these things that have been placed here for the blessing of all mankind have become vested in the hands of a group of a few individuals, and through the private ownership of these means of life upon which humanity depends collectively for its existence upon the earth, they have been enabled to exploit the working class, who must use the tools of production and distribution that they do not own.

And I quoted the Government statistics, the report of Carrol D. Wright, Labor Commissioner for 25 years, showing the portion of wages received by the working class in producing the wealth in this country, that after producing a dollar's worth of wealth in the factories that are privately owned by the master class, the capitalistic class, they receive in actual wages 17 cents, enabling 65 per cent of the population, which is the working class, to buy off of the market, to consume and enjoy, 17 per cent of the wealth that they had produced, leaving 83 per cent of the wealth to remain upon the market, and that portion which the master class does not consume in their riotous living is piled upon the market as unconsumed commodities, and it lies on the markets, and every fourth and seventh year in America we witness what is known as an industrial depression. The first one I witnessed was in 1898. Being a member of the working class, I lived that entire summer on parched corn and molasses.

The Court: Is that what you told them?

The Witness: Yes, sir. I am repeating the speech. And I remembered the next panic of 1907, and the papers tell us in these times that when the factories close down and thousands of men are unemployed, that there is an overproduction, and I could not see how there could be any overproduction of clothing when people were wearing rags, how there could be an overproduction of food when one-third of the school children of New York went to school every morning underfed, according to the health reports of that city, or how there could be an overproduction of any of the necessary things of life when the working people in general were depriving themselves of the necessary things of life.

So we term it not a case of overproduction, as claimed by the papers during these industrial depressions, but a case of under-consumption; that the great bulk of society that has produced this wealth had not received enough in wages to buy it off of the market and enable them to enjoy and consume it. Therefore it was an unconsumed commodity, and not a case of overproduction but a case of under-consumption.

And then I went on to show the peculiar state of affairs which the country is placed in every four to seven years through this so-called overproduction, that the factories close down and there are no orders going into the factories to produce any more commodities until they dispose and sell the enormous amount of commodities which has piled upon the market, and when there are no orders going into the factories to produce, the working man is laid off and thousands of them are unemployed, and then we find always in this peculiar state of affairs there are no orders going in to produce until they sell what is on the market. They cannot sell what is on the market until the working people buy it. The working people cannot buy

it until they get money, and they cannot get any money until the factories start to work and employ them, and the factories cannot start to work and employ them until they get orders to produce. They cannot get orders to produce until they dispose of what is on the market, and they cannot dispose of that until they get money, and so forth, and so forth. It is an endless chain.

So that the only hope is to dispose of the commodities on the market, and we have found that the working class, thousands of them, are unemployed in these industrial panics, and we find the larger metropolitan cities of America putting up soup kitchens and bread lines, and find poverty and misery abroad among the homes and the districts of the working class and there is want and privation among the people who are unemployed, who are tramping the highways and byways of the United States seeking a place of employment where they may give their labor power to produce in order that their children at home may enjoy what they had produced, and when there is a general unemployment over the country, thousands of men unemployed—and it is a well known fact that when a person's stomach begins to growl for want of the necessary things of life, he thinks more in that state and in that condition—and it is to the interest of the man who sits on the throne of power, who privately owns and controls the means of life—it is to his interest to see that the general working class is kept busy and steadily employed, because, unemployed, they become more dissatisfied than ever, and, in order to keep them employed, he must keep the wheels of industry turning, and, in order to keep the wheels of industry turning, he must dispose of the commodities on the market, and, in order to dispose of the commodities on the market which are unconsumed, he is compelled to find a market, and as he cannot find a market in America, he is compelled to go out of the realms of the United States in which to find a market so as to turn into gold those commodities of

which he has robbed the working class of this country through the private ownership of the means of life upon which mankind depends for its existence.

Then I showed that this world war is the outcome of the competitive system. It is the natural outcome of the private ownership system. That it is the natural stage that we are traveling in the progress of the human race. That as the human race travels up through the different stages in its travel from the beginning of time all through barbarism, savagery, feudalism, into capitalism, so it will naturally follow that it will have to travel on out of capitalism into the next stage, the way of collective ownership or the co-operative commonwealth, as the socialist movement terms it, or the industrial democracy, where the people themselves will own collectively those things upon which their life depends collectively.

I showed that the war of Europe three years ago was caused by the commercial greed, and how every war has been caused by commercial greed, the desire of one class of one nation or the individual of the nation to possess that which another nation or the class of another nation has in their possession, and the desire of commercialism to expand and dominate the markets of the world.

Then I went on to show the horrors of the European war and how this world war has been brought on, namely, that we never had a world war between all of the nations of the world until the system of private ownership had become modernly developed in all of the nations of the world, until they found that the wheels of industry and the tools of production and distribution had become developed in all the great nations of the world that the private owners of the tools of production in each of these nations was exploiting the working class of their own respective nations out of billions of dollars every year, and they had to find a market to dispose of this wealth. Thus we find in the year 1917

industry developed in all of the nations of the world, and they were all sending out their industrial scouts, seeking foreign markets, and that the world war is the result of the desire of the master class of all of the nations of Europe to expand in the domination of the world market.

I went on and showed the horrors of the war and the evil conditions that prevailed and what the outcome of the war would be, and then I took up and showed the price that the working class will pay and the price that they have been paying in the trenches of this horrible world war, the murder of hundreds of thousands, the breaking of millions of homes, the breaking of the hearts of the motherhood of Europe, and the rendering of millions of children orphans, and so forth, showing the horrors of the war condition; that the price that the working class of Europe had been paying for the last three years in this war was not the purchase price of their liberty but it was the penalty price of their stupidity; that they had it in their power, as they had in their own hands, the means of ushering in the new society, by the peaceful use of the ballot, as the socialist movement advocates, but they had rejected the idea of the socialist movement, of ushering in the new society by a peaceful way, and now they were going to pay the price upon the field of battle.

And then I went on to show how that the glories of the war and splendor of the war that led the working class into the trenches three years ago—had all been wiped out of existence, that after three years of war the glories of war were not so apparent. That after the war has been in existence for three years we find the working class of Russia going home and demanding of the Czar why they were fighting, and the Czar, having, the same as the kings of other nations, assisted in plunging them into the war, did not know what they were fighting for, and was unable to tell them, and the result was that the working class of

Russia overthrew the Czar and established the first industrial democracy, wiping out of existence in a revolution of three days the blackest autocracy that is recorded in the pages of history.

I went on to show how the socialist movement in Germany, which had supported the Kaiser and the fatherland at the outbreak of this war, led by the belief that it was a war of defense, that they had to defend the fatherland—how part of the members of the socialist movement at the outbreak of the war deserted the fundamental doctrines of international socialism and supported the Kaiser and the fatherland in the war at the beginning, and how now, after realizing the conditions and the state of affairs—how now they were standing up and demanding in the German Reichstag for the first time in the history of that nation the overthrowing of the Kaiser and the establishment of a democracy in Germany, and how that the present war in Germany would not cease until the working class had come into their own, the same as they had in Russia.

I went on to show that Spain was seething in the throes of a revolution, that China was seething in the throes of a revolution, that England was having its troubles and that the king of England through pressure being brought to bear, the internal strife that was caused by this world war, was going to grant Ireland its liberty and its home rule which 12 months ago they refused to give them, and 12 months ago, when Ireland demanded this home rule and liberty from England, the champions of Irish liberty were shot down in cold blood on the streets of Dublin. Their crime was asking for liberty from Great Britain, and instead of giving them liberty they received from Great Britain the same thing that George Washington and the thirteen American colonies received in 1776, when they asked for liberty. They received bullets from Great Britain, and the only reason that America received its liberty was that Great Britain possibly did not have enough bullets. But they had enough

bullets for the Irishmen, and those who demanded liberty for Ireland were shot down in cold blood in the streets of Dublin, and now they were going to give them their liberty without asking for it.

I showed that that was brought about through the glories of war being lost, through the working class having paid the bitter price. Now they are realizing their situation and they are going to demand something in their own interests. Then I treated the state of affairs in the United States and showed through a concentration of wealth in America, that through J. P. Morgan, while we remained as a neutral nation—America remained for thirty months as a neutral nation—that during this entire three years Morgan, as we were told, was the official purchasing agent of England and the allies. He not only cornered the food supplies together with his followers and members of his own class, the food speculators; they not only cornered the food supply and shipped it across the pond and fed the world and starved America, but manufactured thousands and thousands of dollars worth of munitions of war and shipped it across the pond.

I told them further that the master class of America, while America remained as a neutral country, not only shipped across the pond millions of dollars worth of munitions of war in order to feed the war of Europe, but also loaned them the money to buy it with. I claimed that this loan to the allies was not secured; that any money loaned for a destructive purpose never was secured, and that the only money that is secured is money which is loaned for a constructive purpose, to build up and not to tear down. Money which is loaned for a constructive purpose, to build up, is secured by that which is being built by it, but if you loan money for a destructive purpose and take as your security something already built, and then tear it down, then you lose your security.

Then I showed how it was to the interest of Morgan and the master class who had made millions of dollars out of this war, how it was to their interest that America should be engaged in this war.

I quoted them the records of the United States Congress, Representative Callaway of Texas, who has had it written into the records of Congress that the American financial interests sent out paid representatives and interviewed 179 newspapers of the United States with the purpose in view of purchasing their editorial columns and controlling the editorial policy in general of the daily press of the United States which molds the opinion of the American people, the same as the press of any other nation, and how, after going through an elimination process, according to Representative Callaway and the records of Congress, it was only necessary to purchase the editorial columns and policy of the 25 largest newspapers, and, according to Representative Callaway and the records of Congress, the 25 largest newspapers of America were bought and paid for by the interests of Morgan, who has made billions of dollars out of this war while we were a neutral country, and that the daily press now is controlled, the columns, the editorials, and all articles that are written on war, military and financial affairs, commercial and industrial matters, all international or national questions dealing with this war—that those articles and editorials are all written by paid representatives of the Morgan financial interests, according to Representative Callaway.

I showed them how that was a great assistance in leading the United States into this great world war, how the daily press was not voicing the sentiments of America, they were not voicing the ideals that this nation is founded on, that they were voicing the ideals and those things that were to the interests of Morgan and the master class that had purchased the daily press, and that in voicing their senti-

ments, those things, that was in the interest of Morgan, that it was not to voicing the interests of people of America, and it was not to the interests of the working class of America.

I went on to show them that the working class of America is going to pay the price, the same as the working class of Europe had to pay the price, that we are going to pay the price in blood, broken homes, broken hearts, death and agony. I stated that the conscription law had been passed; that there were going to be 500,000 young men conscripted and be sent across to the battlefields of France, and that, according to President Wilson, he expected a million men to offer up their lives under the folds of Old Glory on the field of battle. I showed that we had entered the war to such an extent that we were going to pay the price also, and that the price that America was going to pay on the battlefields of the world war would not be the purchase price of our liberty—our liberty has already been paid for upon the battlefields of 1776—but the price that we were going to pay in this world war was the penalty price for our stupidity, due to the fact that we have given to the master class of America—permitted them to privately own the means of life, the wheels of industry, and that they will only turn the wheels of industry and turn out the necessary things of life in order to produce a profit for its private owner, and that after they turn out these different commodities, turn the wheels of industry, then they have got to find a market in which to dispose of these commodities, and that they have been compelled to go out into the markets of the world, competing with the master class of other nations in order to wrest markets from the hands of other nations.

I then quoted an interview I had with a newspaper reporter in the city of Akron who asked me what I would do, knowing that I was of conscription age—what I would do if I was drafted by the United States. She said that she

heard my speech in the city of Akron. She knew that I was opposed to war, and have conscientious objections to conscription and war in general. She asked what I would do in case I was conscripted, and I said that I would refuse to be conscripted, that I would refuse to go to war, that the party that I represented had a different way of settling the disputes between the master class or between nations than going out on the battlefield; that we could settle them through international conferences, boards of arbitration, even under the present system; that it was not necessary to go into the field of battle, and that, if conscripted, I would refuse to go to war. She asked me then if I knew what the penalty would be. I told her that I realized that the penalties for refusing to be conscripted in time of war, to refuse to answer the call of your country and go to war and murder or possibly be murdered—that the penalties in time of war was whatever a military court saw fit to hand down, from one day in the guard house to being lined against the guard house and shot. She asked me—"knowing this, what would you do?" I said, "If I was confronted with that proposition I hoped that at that hour I would have the courage of my convictions and that I would smilingly face the firing squad and refuse to go and murder men I had never seen in all my life," and I repeated this on the Square.

A man asked me a question—what I would do in case of conscription—and I told him I would refuse to be conscripted and shoot down men I had never seen, and then I gave a closing word, showing the general conduct of the world war and how we were evolving into the new era, and how that the industrial democracy, the co-operative commonwealth, as the socialist movement terms it, the collective ownership of the means of life, how it was being ushered into existence—not the way the socialist movement had planned, to the quiet and peaceful method of the ballot and the use of political action, but how it was being ushered

in over the dying and mangled forms of bleeding millions who had the power in their hands to usher it in peacefully and how in the course of the next five to ten years we would be establishing the industrial democracy in the world and we would then start for the first time to living upon the basis of real and true civilization.

SPEECH REPEATED TO THE JURY BY C. E. RUTHENBERG

Socialist Candidate for Mayor of Cleveland

Comrades and Friends: We have here this afternoon witnessed an incident such as has happened in Russia on many occasions. No doubt, under the reign of the Czar there have been many times when attempts have been made to stop the telling of the truth. There have been many occasions when those who are the servants of the ruling class in society have tried to prevent those who were fighting for the liberties of the people from uttering the things that they desired to state, and this afternoon we have here in this United States witnessed a thing which we have so often condemned in Russia, the land of darkness and dread things. But, in spite of this having taken place, I will proceed with my speech just as I proposed to make it to you before it happened. I am going to present to you my ideas, my thoughts, in regard to the present war and the things which the people of this country face at the present time. I am not going to appeal to your emotions; I am going to submit the facts for your consideration. I do not believe in appealing to your sentiments. I want you to consider the truth as men and women, thinking men and women, who wish to make this world a better place to live in for all of mankind.

A few days ago there was a call issued by certain workers for a conference in Stockholm, to be held for the purpose of endeavoring to find a common basis for ending

this horrible war, for ending this thing which has cost the lives of millions of human beings, and through which other millions have been crippled and maimed and smashed beyond recognition as human beings—a conference was called by certain people to try to bring an end to this war. I am adverting to this now because it shows us how much truth there is in the statement that this nation is fighting a war for democracy. This conference was called by the workers of Belgium, the workers of Denmark, the workers of Norway and Sweden, to hold an international Socialist Conference, to find a basis for terms of peace and end this bloodshed and murder of human beings. All of these nations—the Belgian workers, the workers of France and of Germany and of Austria and Russia and England, all of the countries of Europe—yes, even Turkey and Bulgaria—are sending their delegates to this conference, to see if they cannot end this war, to end this awful murder of men and women; but there is one country which will not be represented at that conference. That is a country which is claiming that it is carrying on a fight for democracy. That is these United States, which has refused passports to a conference which has as its purpose to bring peace unto the world. That is the best answer to the question whether we are fighting a war for democracy or not.

My friends and comrades, this is not a war for democracy. This is not a war for freedom. It is not a war for the liberties of mankind. It is a war to secure the investments and the profits of the ruling class of this country, and I am going to show that to you. I am going to give you the facts so that you can judge for yourselves. Prior to the election of last November, from the date of the St. Louis convention of the Democratic party to the November election, the spokesmen of this Democratic party went up and down this country, from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico, and they appealed to us to support and re-elect the present admin-

istration, to put them back into office; and what did they tell us the reason why we should re-elect the President and Congress? What did they offer as their chief ground for re-election to their places in the government of this country? You know as well as I know that the chief appeal of the Democratic party during this campaign was the cry: "He kept us out of war." He kept us out of this horrible thing in Europe, this chasm, this shambles, in which all that is good in our civilization is disappearing, in which all the kindness and humanity and the spirit of brotherhood which has grown up in the world is being wiped out of existence. The Democratic party asked us to re-elect its candidates for President and its Congress because we knew of this horrible thing, because we knew of this bloodshed, this crippling and maiming of human beings, and because we had turned back from it aghast, and cried out in horror at this awful thing that was happening in Europe, and they said: "WE kept you out of this war, so put us back into office." And what do they say now? They say now that they kept us out of a war for democracy and freedom. My friends, judge for yourselves. Judge for yourselves whether what they said before election is the truth about this matter or what they say now is the truth about this matter. I am here to say to you that what they said before is the truth about the matter, and that the only reason we are in this war now is because it is to the interests of the ruling class, the capitalist class of this country to have us in this war, and I am going to show it to you. I am going to prove it to you. I am going to submit facts to you to prove this assertion.

In January of this year, according to the reports of this ruling class itself, there was a trade balance of five billion dollars in favor of the American capitalist class. In other words, they had exported to Europe, they had sent out of this country of the wealth we produced, which the sweat and labor of the people of this country brought into

existence, they had sent out of this nation five billion dollars more than had come back into this country, and for this they had received gold, they had received stocks and bonds, they had received other things in exchange (and I say to you that never in the history of the world has there been a class which deserves more condemnation, which deserves more criticism, than the American capitalist class which saw in this struggle in Europe, in this killing and maiming and murdering, this bloodshed, this destruction, this wrecking of all that is good and beautiful—which saw in this thing only an opportunity for profit—I say to you that never in the world has there been a class which deserves more condemnation than the American capitalist class, which desired nothing more than to make profits out of the murder of their fellow human beings). When in the Spring of the year they saw their profits in danger through the fact that the German submarine menace became more serious, they found it necessary to use their power over the government of this country to hurl this nation into that war, not to fight for democracy, not to fight for freedom, but to fight for their profits, to fight for the loans which Morgan & Company and their fellow capitalists had made to the Allies. They were ready and willing to send the youth of this nation into this horrible nightmare of murder, to kill and to be killed, in order that their profits might be conserved. That, my friends, is the cause of this war.

And they have done more than that. They have gone farther than that in this thing. For many years—yes, decades of time—it has been the spirit of this nation that compulsory military service was only possible in an autocratic country. We have looked across the waters and said that the people of Germany cannot be free because they are conscripted and forced to fight the battles of the ruling class. We have said the people of France and of Italy and of Russia cannot be a free nation as this country is a free

nation, because they can be compelled to shoulder a gun and murder their fellow human beings, and today the government which has appealed to us because it kept us out of war, from which we have heard many beautiful platitudes about democracy, has put this most reactionary and autocratic law, the conscription law, on the books of this country.

My friends, I want to give you a picture of what conscription means.

The Court. Will it disturb you if we suspend at this point?

The Witness: It will not..

The Court: You will resume at the point where you have stopped. We will take a recess.

(Recess)

The Court: You may resume your testimony at the point where you left off.

A. (Continuing): I want to give you this picture by illustrating it through a story which has come to us from Europe, from one of the countries which is now involved in this war. A young man coming from a humble home had gone to this war, gone out into the struggle, into the bloodshed, into all that makes up this horrible thing we call war, and he had done what the newspapers said was a heroic deed.

Mr. Wertz: If the court please, is there any way of confining this testimony to what was offered here against this defendant as having said?

The Court: No, Mr. District Attorney. My ruling already made, I will adhere to, which is that you have offered, as you had a right to offer, and should offer, his speech on the 27th of May. In the course of that speech certain things were said. As a result of those things, if not of the entire speech, the defendant here is charged with having at least induced a hearer of not only those things but the whole speech to fail or refuse to register. The

witness does not admit the correctness of the transcript of his speech as you have produced it and proved it, and, being one continuous act and speech, and the effect of it as a whole being involved in the charge, I think it would be manifest error if I should refuse the witness the right to undertake to tell what he said on that occasion. I therefore overrule your objection.

A. (Continuing): This young man, who had done what was called a heroic deed, was returning from the trenches to his home city on a furlough.

The Court: Of course, you will understand that you are not expected to make a new or different speech, but to repeat, as exactly as you can, the language you used on that occasion. You understand that?

The Witness: I am making, as I recollect, the speech I made on May 27th.

Q. I will ask you, Mr. Ruthenberg, also if this is a speech made for one occasion, or whether it is a speech that has been used—

The Court: I do not think that is proper.

Mr. Sharts: Just to show his familiarity with what he has been discussing, his statements.

The Court: It might have some other effect than that, if that was true, and that is a matter for cross examination.

A. (Continuing): This young man, returning to his home from the trenches, after having done what was called by the newspapers a heroic deed, namely, having killed in a struggle, single handed, three of his enemies, was to be welcomed at home by a crowd at the depot, by music and by all of the other things that go to make up the sham patriotism of murder and warfare. And the people waited for him at the station. The train came in and they looked for him to welcome him with glad acclaim. But he was not to be found. He did not come from this train. He

was not seen to leave it. And the audience, the people that assembled there, did not find him to welcome him as they expected. But he had himself left the train at a station on the outskirts and by the back alleys reached his home, where he found his mother—his mother to whom he went first, and she, too, was about to honor him, about to state her gladness for his heroic deeds, state how much she admired his courage, and when she started to do that the young man laid his head down in her lap and put his face on his hands and began to weep and said, "Mother, I cannot think of it. I cannot think of this horrible thing I have done. I cannot think of the look of that young man's face—a young man just as I, a young man who might have been my comrade and friend, a young man who might have been a happiness and joy to me—when I put that bayonet in him and took his life from him. Do not talk to me about the glory of the deed. Do not talk to me about the bravery of the deed. It will be the curse of my life for the rest of my days that I murdered a fellow human being thus." That is what conscription means to the youth of this nation. That is what it means to them to be taken from their homes without their consent and sent out to the trenches to murder and be murdered for the profits of the ruling class of this country. That is what the government of this nation has done in putting this statute on the law books of this country—a statute which, in my opinion, is entirely contrary to the fundamental law of this country, the constitution of the United States.

If law means anything, if words mean anything, when the constitution says that there shall be no involuntary servitude in this nation except as a punishment for crime, it forbids specifically taking a man against his will and making him fight and murder his fellow human beings. Yes, one of the foremost statesmen in the history of this country, Daniel Webster, as long ago as 1814, when the Congress of the United States was considering the passage of a con-

scription law, arose in the House of Representatives of this land and denounced it as contrary to the constitution of this country, saying, "Where is it written in the constitution, in what article or section is it contained that you may take children from their parents compel them to fight the battles of any war in which the follies or the wickedness of the government may engage? Under what concealment has this power lain hidden which now for the first time comes forth, with a tremendous and baleful aspect, to trample down and destroy the dearest right of personal liberty?"

And thus I say to you, who are gathered here, those of you who believe in humanity, who believe in brotherhood, who believe in the beautiful and good things of life rather than in bloodshed and murder, that we must use our strength and our power to wipe out of existence, to put out of office, this government which, contrary to the wishes of the people of this country, has put this law on the statute books. And I say to you further—I say to you here, now, believing, as I do, that war is a horrible thing, believing with all my heart and soul that to go forth in war is to murder your fellow human beings, believing, as I do, that this war is a war in the interests of the ruling class only; believing, as I do, that this war has come into existence because the class in power and in control of the government of this country desires to continue to make profits out of the murder of human beings, and to protect those profits which they have invested in loans to one side in this war—I say to you, as I have said before from the rostrum on this Public Square, that I refuse to become the victim of the ruling class. I said to you before I knew that the ages specified in this law would not include me—I said to you then that I would refuse to be conscripted, that I would refuse to shoot my fellow human beings, and I say to you now that there is no power on the face of the earth that could make me shoulder a gun and go forth in the world

to murder another fellow human being of mine. There is no power in the government of this country that can say to me, with the conscientious objections which I have to this war and to the work of the war, that I shall murder another human being, and, rather than commit that act of murder, than to be forced into that act of murder, I will permit the government to riddle me with its bullets.

My friends and comrades, when I speak to you thus, I am speaking to you in all seriousness. I am speaking to you with that spirit which has been shown by those ten thousand men in England who are today lying in English jails because they refused to go to war, because they refused to permit a government to conscript them. I am speaking to you as Karl Leibknecht spoke in the German nation, as he spoke in the Parliament of that country, when he denounced the war as a war of the ruling class and stated his unalterable opposition to that war. And I say to you that, if you are inspired with this ideal, which is the hope of the world; if you are inspired with that which will bring a better world, then you must stand up and fight for that ideal. You must fight with those who are fighting against war. You must use all of your strength and power to bring the day when we can repeal the law which thus violates the dearest right of personal liberty, which would cause a man to kill another human being—you should join and fight with the Socialist party until the day comes that we can wipe this law off of the statute books through the people rising in their might, taking control of their own affairs and putting out of office a government which has betrayed them into this thing.

My friends, they have said of us Socialists who stand here before you that we are traitors, that we are street-corner traitors. I say to you that it is not the men and women who have dedicated their lives to upholding this principle of humanity, not the men and women who desired nothing but to bring brotherhood and comradeship and fra-

ternity into the world, not the men and women who opposed this war before the election time and who oppose it now, who are traitors to the American people—but I say to you that it is the men who asked for their election, the men who pleaded through you to support them, because they kept you out of war, and then hurled you into the war, who are the traitors, if there are any traitors to the American people in this country at the present time.

We must organize our forces to meet the situation. We must organize our power to alter this situation. There is no hope for the people, of again bringing peace and humanity and the spirit of brotherhood and the spirit of comradeship and the good and beautiful things into the world and ending all of this horror and misery and suffering and bloodshed, unless the people themselves organize their power and make themselves articulate. We can, by meetings of this character, by coming together here, five thousand people this afternoon, and protesting against this conscription law—we can tell the government of this country that we do not want this law and we demand that Congress repeal this law, and if this Congress of this country will not repeal this law—if we cannot make the government understand through these mass meetings all over this country—for just as we are meeting here today, men and women are meeting in other cities, and just as we are protesting against war, so men and women are protesting the world over—if we cannot make this government understand that the people did not want war, that they did not want conscription, then we must await the day until we can go to the election booths again and sweep that government out of power and elect men to power who will represent the wishes of the people and change this law and repeal this law, this traitorous act of the ruling class of this country, which has taken from the people of this nation the dearest rights of personal liberty, even to the extent of making them do murder.

We of the Socialist party are carrying on this fight. We are here to carry on this fight. We are here to organize the people of this country for this struggle. We are working toward this end, that out of the chaos, out of the bloodshed, out of the horror of this war at the present time there may come a new society, a new world, a new organization of the people, which will end the cause of war by ending the private ownership of the industry which brings war into existence, which, in place of appealing to us in the shape of patriotism to do murder, will appeal to us to be friendly and comradely and brotherly toward all other nations. For, my friends, there is no hatred in the hearts of the people of this country against the people of Germany. There is no hatred in the hearts of the English workers against the people of Germany; there is no hatred in the hearts of the French people against the people of Austria, or of the Russians against the people of Turkey. They are not trying to kill each other; they are not trying to murder each other because they hate each other. It is a delusion which the lying, prostituted press of this country has tried to put into our minds in order to trick and deceive us. The people of those countries would, if they were allowed to do their will, reach out to each other the hand of brotherhood and fraternity. It is only because the commercial interests of the ruling class are at stake that they are thrown at each other's throats to murder each other.

We are here to fight to the end, to end this condition in the world, to build up this new society, to build up a new spirit in the world, to end war, to end murder, to end suffering, to end the destruction of millions of lives and billions of wealth, and bring into existence this comradeship of the future, this brotherhood which must inspire the hearts and minds of all men, in which we will have fraternity and equality, and in which for the first time the people will be endowed with those inalienable rights of life, liberty and happiness which the Declaration of Independence

says are the fundamental rights of every human being. We ask you to stand with us. We ask you to work with us to achieve this beautiful goal of Socialism, the brotherhood of man—for today, as never before, rings out in the world the cry of the poet of the social revolution:

“Come, shoulder to shoulder
Ere the world grows older.
The cause spreads over land and sea.
Now the earth shaketh and fear awaketh,
And joy at last for thee and me.”

Joy at last for me and thee—of the working class, because for the first time there will come into the world this new spirit of love, of equality, fraternity, happiness and peace.

The Court: That is as you remember it?

The Witness: That is as I remember the speech I made at that particular time.

ARGUMENT OF MR. JOSEPH C. BREITENSTEIN

Assistant District Attorney

Mr. Breitenstein: If the Court please, and gentlemen of the jury, you have been sitting here and listening very patiently to the trial of this case and to the all-star oratory that has been offered here upon the witness stand by these defendants as against the evidence produced by the Government substantiating the allegations in the indictment found by the Grand Jury against these men that they caused Alphonse J. Schue, the young man whom you heard testify on the witness stand, to violate a sovereign law of this land, a law enacted at a time when the very existence of this country is at stake, a law enacted by the legislative

branch of this government and approved by the President of these United States—my President and your President.

Gentlemen of the jury, there can be no doubt in your minds that there were speeches delivered on the Public Square on the 20th day of May, 1917, and on the 27th day of May, 1917, and, I take it, there can be no doubt in your mind that Alphons J. Schue was at the Public Square, and heard the defendants Charles Baker, Alfred Wagenknecht and Charles E. Ruthenberg deliver addresses on those occasions—on the 20th day of May, Mr. Baker, and on the 27th day of May, Mr. Wagenknecht and Mr. Ruthenberg.

There is no doubt that Mr. Schue violated that law. That is the one outstanding fact in this case, undisputed and uncontroverted. The plea of guilty of Mr. Schue is part of the records of this court and part of the record of this case.

The question that you will have to decide, gentlemen of the jury, under the direction of the Court here—the Court will lay down the law to you which is applicable to this case—is whether or not they delivered certain sentences, certain words, and whether or not it is probable that those sentences, those words, so impressed, so appealed to, the mind of this young man that they caused him to change his mind, change his will from a spirit of obedience to a spirit of antagonism to this law—the law of his country, my country and your country, and the country of my posterity and your posterity.

Gentlemen of the jury, the defendants here in this case on the witness stand, under oath—and, by the way, I have taken an oath as United States Attorney to support and defend the Constitution of these United States against all her enemies, foreign and domestic—and I am standing here before you gentlemen in behalf of the government of the United States to see that the laws of this nation are vindicated and violators of law are brought to justice.

You have a very responsible duty to perform and I know you will perform it well, and that duty is for you to decide, to weigh, to analyze, the evidence in this case, and I am here as your servant to try to help you, to try to point out to you, to try to recall to your minds and memories, just what took place here in this courtroom, this majestic courtroom, the last day or two.

Mr. Schue was the first witness for the government in this case. You saw him sitting there on the witness stand, a clean cut boy, such as this country has many, men who are today proud to go forth at their country's call and fight for the things that their fathers stood for, fight for the things that their fathers fought to preserve in 1860, and to fight for the things that we, you and I, and all of us, are today proud to fight for. That is the type of a young man he is. You saw him there. You saw him under the merciless cross-examination of the brilliant and scholarly counsel for the defense, and he never changed his testimony an iota. From the beginning to the end, the testimony of Alphons J. Schue stood up under the attack of counsel for the defense, and it stands out here undisputed and uncontroverted throughout this case.

What did he say Mr. Baker said in regard to this registration law—and you will remember how studiously they tried to get away from the question of registration. Oh, they were willing to admit everything, but when it came to the point where they had to stand responsible for their acts and their words, they studiously tried to evade the responsibility. What did Mr. Schue say Baker said on that day on the Public Square? Mr. Wertz asked him these things:

“Q. Do you recall what Baker said on the 20th of May, 1917, in substance, Mr. Schue, in that speech?”

Now, these are his words as the stenographer took them down here. And, by the way, the stenographer who took those words down—Mr. Wagenknecht's and Mr. Ruth-

enberg's speech in evidence here, as you heard him read them from his notes—took them down without any interest. You might as well attack the notes of this man sitting here who took down the notes in this case as to attack the accuracy and the honesty and the truthfulness and the conscientiousness of Frank H. Farasey in performing his duty on the 27th day of May, 1917, on the Public Square when he took down the words as they fell from the lips of Wag-enknecht and Ruthenberg.

“Q. Do you recall what Baker said on the 20th of May, 1917, in substance, Mr. Schue, in that speech?

A. He said he is of military age and he would refuse to register.”

This is Mr. Schue's testimony.

“Q. What else did he say that you can recall?

A. And he told about the standpoint of the socialist party, the way they voted against conscription, and that it was taken by the local here that all socialists would refuse to register.

Q. What is the last part of the answer?

A. That all socialists would refuse to register and induce others, telling them they would have the full support of the socialist party.”

Further on, in response to a question by Mr. Wertz, he said:

“A. He said he would rather be shot here as a man than be shot in the trenches of Europe as a dog.

Q. In order to refresh your memory, I will ask you whether or not Baker said anything about the constitutionality of this conscription act?

A. Yes, sir.

Q. What did he say on that subject?

A. He said it is against the Constitution because a man is guaranteed the right of life, liberty, and the pursuit

of happiness, and a man being forced to do this, it is taking away his liberty and taking away even his life if he is forced and drafted into the trenches."

That was Mr. Schue's answer, and let me tell you that the same Constitution of the United States which they are talking about provides for the raising of armies for the defense and protection of this country against enemies, foreign and domestic.

Now, what was the corroboration of Mr. Schue? Mr. Lind. You saw him on that witness stand—a clean cut young lawyer, chief police prosecutor of the city of Cleveland, Ohio, a man who has taken an oath of office and knows the meaning of taking an oath on the witness stand. He testified here under oath that he was present on the 20th of May and he heard Mr. Baker there address the assemblage on the Public Square, and he says, in regard to Mr. Baker's words:

"He said that by the conscription law, if a man failed to register he could be sent to jail, and then he said there are two things you can do. You can either register and go to murder your fellow workmen or else you can go to jail, and then he said something about 'then the capitalists will have to feed you.' I think that he said that the socialist party would defend those arrested for failing to register. He also said this, that the law was unconstitutional and referred to the section of the Constitution which provided that a man's rights to his pursuit of happiness should be inviolate."

Who else corroborated Mr. Schue on this point as to Mr. Baker's address? The police officer there. What interest has he in this case? None whatever. He was sent down to the Public Square in the performance of his duty and he was down there and heard this talk of Mr. Baker. He did not know he was going to testify here. He came

up here in response to a subpoena of this court to tell in his own manner just what he heard, and in response to my question you will recall that he said:

"He spoke more on the foreign affairs and the market; as to how the war was brought about, the condition of the capitalists and the affairs of Europe, and as a socialist speaker he spoke on conscription, which he said was unconstitutional, conscription was unconstitutional, and if he was in the age limits, which he is required to register on the 5th day of June, he would rather go to jail than go over and shoot down his brother men, and if there was any young man in the audience between that age, they can have the same privilege of going to jail or registering."

That is the word "registering" that they tried to keep out of their speeches. But it is there. It cannot be erased. It was put into this case by witnesses who have no interest in it whatsoever, who corroborate Mr. Schue—Mr. Lind and the police officer, and it will stay in this case until the end. They cannot by their denials, by their efforts to make out these men who heard them and who told their words are telling a falsehood—they cannot take that out of the case.

"If there is any young man in the audience between that age, they can have the same privilege of going to jail or registering, which the capitalists would feed them while they were there."

Now, you heard Mr. Baker testify. He was eloquent and convincing. Don't you think it is very probable that Mr. Schue, hearing the scholarly, eloquent Mr. Baker, would have been impressed by his talk? I was. If I did not know what the things that he said there on the witness stand would mean—that they would mean the overthrow of everything that you and I hold dear, that the things that he said there, if put into effect, would overthrow everything that the Star Spangled Banner, this old flag, stands for—

I would have been impressed by his talk myself. Was there any wonder that Mr. Schue came back to hear Mr. Ruthenberg and Mr. Wagenknecht on the 27th day of May? This argument appealed to him. He wanted more. Mr. Baker started his mind working, started the change of the process in his mind which resulted in the change of his will. Mr. Baker started this young man on the way from a law-abiding citizen, a young man who intended to obey the law, to a young man who finally violated the law. Mr. Baker started it. Mr. Baker assisted, aided, abetted, counseled and advised this young man to disobey the law, and on the 27th day of May Mr. Wagenknecht and the brilliant—oh, wasn't that a wonderful talk there of Mr. Ruthenberg? Oh, wasn't it pathetic? As I heard him talk there, I remembered the oration of Anthony over the dead body of Caesar, and you will remember he said: "If you have tears, prepare to shed them now." How pathetic that talk was, but it was the kind of talk that would appeal to an impressionable young man, as Mr. Schue was. Why, it was no wonder he stood spellbound. We all sat spellbound during his talk here yesterday.

But you and I—you men here who have had experience in this life, you men here who have worked hard in your field of endeavor during your life, you men who have accumulated some savings because of your work—know that the things that were expounded from that witness stand yesterday afternoon would mean the overthrow of everything that our fathers fought for, that this Constitution of ours means, because the men who formulated and drafted that Constitution under the guidance of God never had ideas such as exist in the minds of Mr. Ruthenberg, Mr. Wagenknecht, and Mr. Baker—the ideas that Mr. Ruthenberg has that caused Mr. Fish to say that the company by which he was employed could harbor him no longer under their roof. They are not the ideals that mean so much to you and to me, that make this country the greatest in the

history of the world, a democracy, established by the fathers of our country—George Washington, Alexander Hamilton, and Jefferson—a country which permits men of the mind and attitude of these defendants, in time of war, when the very existence of democracy, the very existence of this country is at stake—permits them to have a fair trial under our Constitution such as they have had in this court.

I venture to say, gentlemen, in all the years of your life time, you have never seen men get a fairer trial under the guidance of His Honor here than these men have had in the last few days. And, when they are charged with violating a law of what kind? A law which provides for an army. What for, this army? To protect this country against the aggrandizement, the encroachment of the vandal, the Hun, the Attila, of the 20th century, who is trying to overrun the world, trying to keep us from exercising rights which have been fought for on the battlefields throughout the ages—the freedom of the seas—the right of every man to use this ocean, the highway of the world, just the same as you and I and all of us have the right to use that street down here. These men, who did things—I would not say that they are in the employ of the enemy—the enemy does not know them—

The Court: I would suggest that you omit that line of argument.

Mr. Breitenstein: I will say they did the very things that any one who was not interested in the welfare of this country would have them do. They tried to prevent this country from raising an army. They tried to get the use of this land to violate the laws of this country, which has given them life and protected them and their fathers and will protect their posterity and their property, they tried to prevent this country, whose life is at stake, from having a weapon which it needs to protect itself against its enemies.

Now, what did Mr. Wagenknecht say on the 27th of

May? You will remember Mr. Schue testified that Mr. Hayes said that this selective service law, this conscription law, was now a law of the land, that it must be obeyed, and that all those who come within the provisions of the section with regard to registration should obey it; and you will recall, and every bit of testimony corroborates it here, that Mr. Wagenknecht arose, when his turn came, in an excited manner and said these words: This is what Mr. Schue says:

"Hayes says as it is the law now you have got to abide by the law and the only way to show you are against the law is at the time the election comes around, to throw these people out who voted for this law."

That is, of course, proper.

"Q. Now, as I understand you, Max Hayes advised compliance with the law?

A. Yes, sir.

Q. Who was the next speaker following Max Hayes?

A. Wagenknecht.

Q. What did Wagenknecht say in regard to Max Hayes' statement that the law should be obeyed, that you have just testified to, if anything?

A. He says it don't comply with the standpoint of the socialist party. That ain't complying with the socialist standpoint, and that he is not talking for the socialists; that they have taken a very decided stand on this here act of conscription, that all socialists would refuse to register, that it would not be the way Max says, that we do not have to obey this law.

Q. Do you recall anything else Wagenknecht said at that time?

A. He says up to conscription, up to disobeying or obeying laws, there are two things you can do: you can

either disobey the law and go to jail or obey it and eat gravel and dust the rest of your life.

Mr. Lind said:

"I was in the crowd and heard Max Hayes make the speech. He was the first speaker, if I am not mistaken, on the 27th of May. Max Hayes in his speech advised the socialists to band together to have the law repealed by means of political action and said further that he would not advise any one of age not to register.

"He said that Max Hayes in his speech did not represent the platform or program of the socialists with reference to conscription."

On cross-examination by Mr. Sharts, Mr. Lind said:

"Well, he said—he got up, as I say, real excited and seemed to be in a hurry to say what he had to say. His face was flushed and his first statement was to the crowd that he did not—that Max Hayes did not represent the socialist party in his speech just finished. Then later on he said that the socialist party was unalterably opposed to the conscription law and would fight and fight it to the end and he said: 'now you can either go to jail or go to murder your brothers. You have a choice of one of two things. You can either go to jail'—and he repeated that several times."

Mr. Farasey, in regard to Mr. Wagenknecht's speech, says he said this:

"Comrade Hayes has given you his version of this question of conscription. It happens, however, that our friend Hayes' version does not quite agree with the official action of the socialist party of the United States, and, not agreeing with the official action of the socialist party of the United States, we must say this afternoon, Max Hayes does not speak for the socialist party. The socialist party has taken a very definite and decided stand upon this matter of registration for conscription."

Registration for conscription!

"There are two things you can do under any circumstances, when it comes to obeying or disobeying the law, and these two things are these: you can either obey the law made by your masters and grovel in the dust and eat sand for the rest of your life, or you can at least stand up like men and say 'the time has come when we, through organized power and strength, must say to the capitalists that they cannot any more curtail our rights and our freedom and our liberty'."

What does Mr. Schue say that Mr. Ruthenberg said? Mr. Schue said that Ruthenberg said this:

"He says they have taken a very decided standpoint and it was being voted at St. Louis and they re-adopted at the local here and they all refused, every socialist, to register and encouraged others not to."

"He said if the law gets amended that it takes in his age, he will refuse."

"He said he would rather go to jail than to go to work and go to the trenches."

Mr. Schue further says:

"After these speeches I made up my mind not to register, hearing the way it was against the Constitution, which I believed they knew more than me. I thought it was right and I refused to register."

The deed was done. Like Antony, when he received permission from Brutus and the other conspirators to deliver an oration over the body of Caesar and took that opportunity to turn the attitude of the populace against Brutus, Mr. Baker, Mr. Wagenknecht and Mr. Ruthenberg took advantage of this privilege which we have in this land—freedom of speech,—and mind you, if they had said those things, under the conditions that they were said here, in any other country of the world, they would not be here on

trial. The defendants, thinking that freedom of speech, that liberty of speech is license, took advantage of that opportunity to steal away the mind and the heart of this young man, and, after they were through, they, like Antony, said: "Now, let it work. Mischief is afoot. Let it take whatever course it will."

Gentlemen, in this argument here they brought in a great deal about this war and the reasons for it. I only want to leave with you a few words on that. The socialist party is not being tried here. The reasons for this war are not to be decided here. There is one point for you to decide, and that is, whether or not they said the things that Mr. Schue, that Mr. Farasey, that Mr. Lind and the police officer and the young man in uniform—that clean cut young man who is now wearing the uniform of his country and is gladly following in the footsteps of the fathers of our country and men who fought in the Civil War to preserve this country. That young man testified that on the 13th day of May they passed a resolution and that he was there, and Mr. Ruthenberg and Mr. Wagenknecht had the temerity in this court to question his veracity. All of these witnesses here testified to the same point, that they said these things, and they must bear the consequences of their acts if you find that Mr. Lind, Mr. Farasey, and Mr. Schue have all told the truth in this matter.

But, about this war, I can only say that this country was patient—patient beyond words, and if we were to be worthy of our sires, of our fathers, of the men who founded this country—and I want to say that it was not the type of men who sit here on the other side of this table that founded this country—they had no ideas like that—if we were to preserve the integrity of this nation—and they do not care for this nation—they do not care to preserve this nation intact to give us all an opportunity to work out our own salvation—if we were to do these things, if we were to remain a country, if we did not want to have this Hin-

denburg line from Chesapeake Bay to Pittsburgh and from Pittsburgh to Canada—if we did not want those things, we had to enter this war to preserve our institutions. And our great President said, almost in the words of Christ, the day before he had to suffer for the sins of men, when he said: “My father, if it be possible, let this cup pass from me. Nevertheless, not as I will, but as Thou wilt.” That is the attitude of this country in this war. We did not want to enter this war. We wanted to remain out of it, but the very institutions of this country were at stake. If we were to continue as a nation, we had to either go abroad and assist France, to whom we are under a great debt of gratitude, or we had to “grovel in the dust,” in the language of Mr. Wagenknecht.

Gentlemen, I have no doubt of your verdict in this case. We all love that flag there. We all love the things it stands for, and the things that that flag stands for are at stake in this case. I thank you.

ARGUMENT OF MR. MORRIS H. WOLF

Attorney for the Defense

Mr. Wolf: If the court please, and gentlemen of the jury: Even though my time is limited, I cannot forego the opportunity of thanking you and this honorable court for the kindness and patience with which you have listened to this case, and the court for the patience and the scrupulous fairness with which the defendants whom we represent here have been tried in this court.

The defendants before you, these three men—Charles E. Ruthenberg, Alfred Wagenknecht and Charles Baker—are charged with aiding and inducing, counseling and commanding a certain Alphonse J. Schue, whom you have seen before you on the witness stand, not to register, and that, as the result of such inducing, counseling and commanding

on the part of these defendants, this Mr. Schue refused to register, thereby breaking a law which Congress passed and making himself amenable for it. This is the only charge against these men. And, despite the fact that a good deal has been said about socialism, despite the fact that these men are important members and officers of the socialist party, despite the fact that a great many lengthy questions have been asked about the attitude of the socialist party on various questions, including the war, including conscription, including legislation and divers other questions—despite that fact the socialist party is not on trial. And these men, as members and officers of the socialist party, are not on trial. These men are on trial as individuals, as men having said certain things on the Public Square at two meetings, on two occasions, May 20th and May 27th, of this year, and as the result of such speeches made by these defendants on the Public Square of the city of Cleveland on the 20th of May and the 27th of May of this year, and as the result of nothing else, Alphonse J. Schue was induced to violate a law of the United States.

What are the facts in the case, gentlemen? A good deal of time has been consumed in introducing the evidence. A good deal of time has been consumed in questioning and questioning the witnesses. Now, what are the facts? The facts, stripped of all the unnecessary things, are what you want to have before you when you retire to your jury room to consider the case, and these you will consider without any bias or prejudice to be able to do justice to these men.

The first witness introduced by the Government—and the star witness, as he is generally termed—was Alphonse J. Schue. He was a young man of about 21 or 22 years of age, who sat there before you in a fidgety manner, nervous, unable to look you straight in the eye, extremely conscious of his position, a man who had plead guilty to a violation of the law, who went on this witness stand to show by his testimony that these men—these respectable,

honest, sincere, upright and truthful men, as it has been testified to their character that they are—that these men induced him to violate a law of the United States.

Who is Schue? He is a man who claims to have lived in the city of Cleveland all of his life, a young man who, no doubt, has companions, and no doubt knows a great many young men of his age with whom he associated, who, when he grew up, formed a good many acquaintances, yet who testified to you that he was on the Public Square on the 20th and 27th, that he came to the Square from his home on a street car on Sunday afternoon—the street car no doubt crowded—that he stood on the Square listening to speeches delivered to an audience which was variously estimated of from 1500 to 3000 or 4000 people at one meeting, and from 3000 to 4000 people at another meeting, and who testified to you that he mingled at times in the crowd, that he walked away and came back, and yet who insists that there is not a single, solitary, living soul who can confirm his ever being present on the Public Square. Quite remarkable, gentlemen of the jury. Quite remarkable. At the risk of repetition, I want to impress you with that, that here was a man who was born in the city, was raised here, worked in a shop, apparently knows thousands of people personally and who by sight knows thousands more, who comes down to the Public Square in the city of Cleveland, where thousands of people are assembled from various parts of the city of Cleveland, and yet who has not seen a soul who knows him, and whom no one ever saw there. Is that reasonable? Is it likely that Mr. Schue was on the Square? I leave the question to you, gentlemen of the jury. You are experienced men—you are not necessarily lawyers—you may not understand the law only as it is given to you by the court—but you understand facts, you have had experience in life, you have met men, you know what weight to give to statements made by men, you can size up men who are before you, you can see their insincerities or

sincerities; you can also take into consideration the conditions under which the statements were made here by Mr. Schue. Mr. Schue, as it were, has the "sword of Democles" hanging over his head. He plead guilty to an offense, to a violation of the law of the United States; he was not yet sentenced, and, as it were—it may not be strictly proper to put it in that way—but, as it were, he is in the grip of the District Attorney and he is here testifying against these men, and, as it were, in a way, for the District Attorney. Consider that. That is worthy of your consideration, gentlemen of the jury, because the freedom of these three men is involved in that consideration. So much for Schue.

They had another man here on the witness stand, an honest, able, perfectly candid man—Mr. Lind. Mr. Lind is prosecuting attorney of the police court of this city. He was asked by the District Attorney as to the meeting on May 20th. Now, mind you, here is another remarkable thing. There are a number of remarkable things which took place in this court. This is a very remarkable thing, gentlemen of the jury. Not a question was asked Mr. Lind as to what had taken place on May 27th. Why? On May 27th Mr. Wagenknecht was supposed to have been arrested. There is another thing for you to consider. Mr. Lind, in the exercise of his official authority, caused the arrest of Mr. Wagenknecht on May 27th, but did not cause the arrest of Baker on May 20th. He did not cause the arrest of Mr. Ruthenberg on either May 20th or May 27th. Why? Did Ruthenberg say something different from Mr. Wagenknecht, or Baker say something different from what Mr. Wagenknecht said? If these three men said the same thing, as the District Attorney would like you to believe from the testimony, would it be quite likely for an officer of the law, any conscientious officer of the law, to cause the arrest of one and not to say a word to the other two? Consider that. This would tend to show, gentlemen of the jury, that there was not a single scintilla of evidence, not

a bit, that would involve the guilt of Mr. Ruthenberg or Mr. Baker; that, if the prosecution can make any kind of a case at all, any sort of a vague intimation of a case, that is against Mr. Wagenknecht, and we maintain that there is no case even as against him, and we are ready to show it.

The most important evidence, supposedly, that was introduced by the prosecution, were the notes, the stenographic notes, taken by Mr. Farasey. Now, Mr. Farasey on cross-examination, admitted that he had been working for detective agencies. Now, that in itself is not a suspicious circumstance at all. A man may be working for a detective agency and be a perfectly honorable citizen. A man may work for a detective agency and be telling all the truth on the stand and any other place, reporting things as they really are. But is he likely to do it under all circumstances? Do not forget, gentlemen of the jury, that when a detective agency hires any one, a stenographer or gumshoe man, he is to "bring home the bacon," to get the evidence, not merely to go to the Public Square and jot down something that would be of no consequence to them. No. He is to go down to the Square or any other place and come back with evidence that would constitute some violation of law—that is what a detective agency wants and that is the psychology with which men who work for detective agencies are imbued. They are trained that way. They have to do it. Farasey was frank about it, too, that he could not always hear the speaker, and that he did ask—I think it was Mr. DeWoody—what the speaker said on one occasion. He testified that part of the time he used a fountain pen. Now, a fountain pen, as some of you have had the misfortune to know, is a pen that does not fountain all the time, especially if you keep it in an upright position. He testified that he kept the note book before him at an angle of about 45 degrees, and perhaps higher, that he used the fountain pen in an upright position, upward. Water or ink does not flow upward. It flows downward, and, if

he kept that pen in an upright position, he was not able to get everything that the speaker said. Now, you have all had experience with fountain pens. That is something with which you are all perfectly familiar. When a fountain pen refuses to write, it takes some considerable time before you can get a legible letter. Meanwhile the speaker has said something. And yet, notwithstanding this one difficulty—and I will point out others—Mr. Farasey has a perfectly fluent speech of Mr. Ruthenberg and others. How does that come? If Mr. Farasey has not heard a complete speech, how could he write one? From memory? It is a physical impossibility, absolutely impossible, something that the laws of nature, not the laws of man, would not permit.

There is another hindrance that Mr. Farasey experienced during his taking of these notes. There was a crowd estimated between three thousand and four thousand people and he was in the midst of that crowd. He testified that he was being jostled all the time, that he could not always take the notes, that he was compelled to lean his notebook against the back of Mr. DeWoody, but when Mr. DeWoody stepped away, the notebook slipped down, and there was a period of intermission. There were times when there was an extreme amount of noise on the Square—and at what time is there no noise on the Square? You have all been on the Public Square. There were times when there was laughing and prolonged applause, and yet he kept on writing, everything that he heard and everything that he *wanted to hear*.

These men have told you what they really said on the Public Square. Now, gentlemen of the jury, consider this: These men are officers of the Socialist Party and trained speakers of the Socialist Party. This is not their first year of activity and this is not the first year of activity of the Socialist Party. The Socialist Party has carried on campaigns years prior to this meeting, and will, no doubt, carry on meetings in the years to come. These men have been

delivering speeches before. In fact, these men testified to you, that, in order to be able to deliver a speech in a fluent manner, so as not to be interrupted, so as to keep the attention of the audience at all times, they had had speeches prepared and they have delivered these speeches as prepared speeches with slight variations, and these speeches—probably not word for word, but in substance—were delivered before and were repeated on the 20th and 27th of May, and these speeches these defendants repeated to you. Have you noted the fluency with which they repeated the speeches? They have never seen any transcript of those speeches, because, surely, the prosecution would not give them a transcript of their own speeches so as to familiarize them with the evidence that was to be used against them. Surely you will not think that. These men did not know what the stenographer took down, and it would have been a physical impossibility for them to have remembered word for word what they said on the 20th and 27th of May *unless* they were prepared speeches, and these prepared speeches these men repeated before you.

Was any one of those speeches against registration? No. There were things there against capitalism—for the Socialist Party is something opposed to the capitalistic parties, and they claim the Republican and Democratic Parties to be capitalistic parties. The Socialist Party is opposed to war and they talked against war. The Socialist Party, however, has no monopoly on its opposition to war. We all—every last man in this court room—are bitterly opposed to war. We abhor it. We hate it. We recoil with horror at the very mention of the word. So that the Socialist Party has no monopoly on that. We all abhor it. And these men talked about war. At first they talked of what they considered the cause of the war, and then they talked about the part of this country in the war, and talked about conscription and taking men over the ocean to fight battles and to fight men whom they had never seen. They were and

are opposed to the war. But so are we all. They are referred to as conscientious objectors. A conscientious objector is not a man who refuses to register, but one who registers and says: "I am a conscientious objector and will obey the law until I am called upon to kill my fellow men." Now, there is very likely to be some provision made for these conscientious objectors. It has not been said in the law or by Congress that the conscientious objectors would be compelled to murder. They are still within their rights. A man who registers and who says: "If called upon to murder, I will refuse," is not a violator of the law. By no means. There is likely to be some provision made for these men, who refuse to murder, they may go on farms or work in factories. These men do not refuse to assist their government, they are in the same status as some religious sects, the members of which refuse to murder, and yet do not refuse to assist their government in the prosecution of its aims. And these men made clear that distinction, especially so Mr. Ruthenberg, between opposing registration and opposing conscription. To you, gentlemen of the jury, it is clear. It may not have been clear to Mr. Schue. It may not be clear even to the District Attorney, with all due respect to his knowledge of the law and his great intelligence, but it no doubt is clear to you by this time that a man who refuses to register is a man who wants to disobey the law right at the start. He says the government has no right to call him and he will disobey the law. But the man who says: "I will refuse to shoot my fellowman, but I do not refuse to assist the government in any other way in carrying on this war, will register and will advise others to do so.

Mr. Baker registered. Now, if this man were really opposed to registration, do you think he would have been likely to register—Mr. Baker, with his honest face and open eyes, looking at you with straightforwardness, sitting there on the stand, and asking that God may give him

strength at the moment, when he is confronted with a dilemma, either to kill or be killed, that he may have the courage of his convictions and be shot rather than kill. Do you think a man of that caliber is likely to register to avoid a jail sentence? I do not think, gentlemen of the jury, that you think that at all. I know that you believe that a man who will appeal to Almighty God for courage to be shot for his convictions, to give up the very last thing we have—life—that man is not very likely to refuse to register or to register in order to avoid a small, comparatively speaking, punishment.

The facts are, these men did not advise anybody not to register. The testimony proves that. If anything, they advised registration. We were not permitted to show that they did advise people to register, so that we cannot comment on that. But, if anything, they advised people to register. You heard Mr. Ruthenberg testify here that when he came into the Socialist Hall on May 13th and saw nailed to the wall a little sticker or leaflet advising the young men of the country not to register, that he in disgust plucked it from the wall and threw it into a waste basket. There was no one to watch him, but Ruthenberg tells the truth. He is an honest man; he is a truthful man. Whatever may be said of his political convictions, that man, when he was on the stand, told the truth and all of the truth. When that man told you that he plucked from the wall a leaflet which advised the young men of the country not to register and threw it in the waste basket, it was because of his opposition to refusing to register; it was because he would advise all men to register; it was because he wanted to obey this law; and the only stand he would make was when the country would compel him against his will, against his religious and conscientious opposition, to kill his fellow men. That would be the only time he would take a decisive stand against the government. And that is no crime. *That*, any man may do. I may say that I will obey laws until a law

is passed that compels me to murder my fellow men. It is no crime at all—and the court will so charge you—none whatsoever, to say that “I will register. I advise others to register, but, if drafted, if called upon to shoot my fellow men, I will refuse.”

Now, these men are before you, gentlemen of the jury, and when you retire to your jury room, consider them, consider their testimony, consider the manner in which they have testified before you, consider their appearance, the way they have spoken to you—honestly, openly, with nothing to hide. They did not mince words. They did not apologize for their convictions. No. They described their convictions to you in a plain, ordinary, heart-to-heart manner, and you will consider this, gentlemen of the jury, when you retire to your jury room, and then I have no fear of your verdict. I thank you.

ARGUMENT OF MR. EDWARD S. WERTZ

United States Attorney

Mr. Wertz: If the Court please, and gentlemen of the jury: you are having the distinguished honor as jurors in this court of justice to try a man who has been a candidate for Governor of the state of Ohio, a man who has been a candidate for Congress in the 20th District of Ohio; a man who has been three times a candidate for mayor of the great city of Cleveland, and a man who has been a candidate for the great office of United States Senator. That in itself is some honor and some distinction. Gentlemen of the jury, as the years come upon your shoulders and you gather your children and your grandchildren around you to tell them of the distinguished honor that you have had, I feel confident that you can say with pride to those children and grandchildren that it was your distinguished privilege and opportunity to place the verdict of guilty upon such a man for the violation of the law of his country.

Mr. Sharts, representing the defendants, stated to you that he felt the great weight of the responsibility that rested on his shoulders. He felt the burden was too great that had been placed upon him. I do not wonder at Mr. Sharts feeling that the burden has been too great that has been placed upon him. The task that has been put on his shoulders is a task and a load that the ordinary individual would not seek to carry—to defend men who have violated the laws of their country at a time when it is engaged in a struggle for its life, at a time when the country is engaged in perpetuating its institutions for you and your children. I say that a man has a wonderful load on his shoulders when he attempts to carry a load like that in a civilized community such as the city of Cleveland in the great state of Ohio. And he said that he felt that he was speaking his last words over these men. Mr. Sharts, if you lived in many countries, they would speak the last words over these men and they would not be spoken in a court of justice either, in a time of war, at a time when the people of this city and this nation are drawing the numbers for their sons who are chosen to go out to perpetuate the institutions of this country. They would not waste the time to speak any last words over such as these who sit here charged in this indictment. That is the situation that confronts you today in this case.

This is no charge against the Socialist party. The court in your presence has stated on numerous occasions that we are not trying the Socialist party. The government of the United States hasn't anything against the Socialist party. It is not on trial. We are not responsible, gentlemen of the jury, if these men who represent these defendants have seen fit to drag their propoganda into this courtroom, have sought to make them appear as martyrs, such as Lincoln, and have used even the sacrilege to compare these traitors to Jesus Christ. Did you ever hear of anything as despicable in your life as to compare these com-

mon, ordinary, low-down law violators, as the testimony in this case shows they were, with such men as Owen Lovejoy, men like Abraham Lincoln, George Washington, and even to Jesus Christ. Can you conceive of a situation such as that in a court of justice, organized and protected by the government of the United States—not the government of the “ruling class” that Ruthenberg so glibly hands out—not the ruling class, but your government, my government and their government, organized by your ancestors and mine and administered by the men that you send to the Congress of the United States once every two years, and by the President that you vote to elect every four years. Talk about the ruling class, the ruling class!

Now, I am glad, gentlemen of the jury, that they had the opportunity to sit on that witness chair and try out their doctrines, their nostrum, and their false theories of government upon you men who have reached the age of maturity, who have grown to manhood and reached mature years, and I have listened to the doctrine that they have preached from this witness chair to see what effect it has on you. That is the doctrine that they hand out to their misguided followers, these fellows who do not take the time to understand or to study or to learn what the government is about and what we have in this country, and I am glad they had the opportunity to try that on you, no matter how much you had to suffer as the result of that effort.

Now, as I came into the court room—I was detained a little while with some business in my office this morning—I heard Mr. Sharts refer to this picture above the court. I do not care to go outside of the testimony, gentlemen of the jury, in arguing this case, and only do so because of what Mr. Sharts said. Mr. Sharts said that this picture up here read: “Thou shalt not kill.”

Turn and look at that picture, gentlemen, and see what it reads. That is Justice in the middle with a sword. There

are the angels telling Justice what to do. Over on this side is Law and Order. There is the law in the book that the advocate has been giving to Justice. On the other side is Alexander and Solomon, the law-givers, the men who created organized government, the men who created governments founded on law and order and on constitutions. They are waiting to see what Justice will say to the charge under consideration by Justice. And on the other side what do you see? Anarchy, socialism, disorder, I. W. W., mob-rule. That is what you see. Do you see these figures here, cowering and running when Justice is considering what the man says the law says? Do you see how the angels are pointing to the tablets and saying to Justice what she should do with this crowd that is going? That is the crowd that is on trial in this case, not the Socialist party, but these three defendants, and the men that are sitting over there confidently, with no worry on their faces, are the men who founded organized society and organized government, and that corresponds, your Honor, to this court room scene that is here to-day, and this jury is the picture of Justice that is considering and trying this case, and the Government is presenting to you the written law in that book, and our ancestors and those who have gone before us, who created this country, are looking down to see what you are going to do with organized government—whether this crowd over here is going to overturn organized government in a time like this—and that is the question that is before you for decision in the trial of this case.

Gentlemen of the jury, the Socialist party is not on trial in this court room. Here is who is on trial and here is all there is to it. "The grand jurors for the United States of America, impanelled and sworn in the District Court of the United States for the Eastern Division of the Northern District of Ohio, at the April term thereof, in the year 1917, and inquiring for that Division and District, upon oath present that Alphons J. Schue, on June 5, 1917,

at Cleveland, in said Division and District, was a male person between the ages of twenty-one and thirty, both inclusive, to wit, a male person who then had attained his twenty-first birthday and who did not on that day attain and had not before then attained his thirty-first birthday and that such person was then and there required, by the proclamation of the President of the United States, dated May 18, 1917, to present himself for and to submit to registration, under the Act of Congress approved May 18, 1917, and entitled "An Act to authorize the President to increase temporarily the military establishment of the United States," at the regular registration place in the city of Cleveland, 4th ward, precinct "L" in said Division and District, between 7:00 a. m. and 9:00 p. m. on said June 5, 1917, that said precinct then being the precinct wherein said Alphons J. Schue then had his permanent home and actual place of legal residence, from which he was not then temporarily absent; that said Alphons J. Schue so then and there being such person, unlawfully did wilfully fail and refuse so then and there to present himself for registration and to submit thereto as in said Act provided and in said proclamation appointed, he the said Alphons J. Schue then and there not being an officer or an enlisted man of the regular army, of the navy, of the marine corps, or of the national guard or naval militia in the service of the United States, or an officer in the reserve corps or an enlisted man in the enlisted reserve corps in active service; and that Charles E. Ruthenberg, Alfred Wagenknecht, and Charles Baker, each late of Cleveland aforesaid, and each well knowing said Alphons J. Schue to be such person subject to such registration, at Cleveland aforesaid, in said Division and District before and at the time of his so doing, unlawfully did aid, abet, counsel, command and induce said Alphons J. Schue in so unlawfully and wilfully failing and refusing to present himself for registration and to submit thereto as aforesaid, and procure him to commit

the offense involved in his so doing; against the peace and dignity of the United States, and contrary to the form of the statutes of the same in said case made and provided."

Now, that is the charge, gentlemen of the jury, and there isn't anything else in it but the charge that these men were responsible for Alphons J. Schue violating that law and refusing to submit to registration. Alphons J. Schue—it is in evidence in this case, plead guilty to that indictment as charged. Alphons J. Schue violated that law, and the question for your consideration is, are these men responsible for Alphons J. Schue violating that law?

This is not an act passed to catch Socialists. They are not tried on any new law that was passed by Congress. They are being tried for a violation of Section 332 of the Criminal Code of the United States, that has been on the statute books for fifty years, as far as I know, and that law says that whoever directly commits an offense defined in any law of the United States or aids, abets, counsels, commands, induces or procures its commission, is a principal. That is the law they violated. Is there any doubt in your mind, gentlemen of the jury, but what these men violated this law?

Schue went on the witness stand and told you all about it. There isn't any doubt but what Schue was telling the truth. He is a machinist, a young man who says that he never intended to violate this law until he went over there on the 20th of May and heard this speech of Baker's, and then he went back on the next Sunday and got the rest of the dose of the other two, and then went off and violated this law.

Now, they dispute the testimony of the stenographer and of the policeman. In fact, gentlemen of the jury, they dispute everything. They just dispute the whole business. But, I say to you, gentlemen of the jury, that if there wasn't any testimony on the trial of this case except the

testimony of Schue and the testimony that these three defendants gave in your presence in this court room, that in itself is sufficient to establish this charge against these men. Do you expect a man of average intelligence, a boy immature in years, 21 to 30, to go in a public place and listen to three men delivering speeches like they delivered in this court room and not be influenced by such talk as that? Is that possible? Those speeches alone, whether they used the word "conscription," as they admit, or whether they refused to use the word "registration," is sufficient to justify a verdict of guilty in this case and to substantiate Schue as charged in this indictment. They induced him to violate the registration law.

Gentlemen of the jury, those speeches are impressive. What is the difference what language they used? What is the odds? They said: "Schue, the thing is wrong and you must not go into this registration business," according to their own admissions, only they used the word "conscription" instead of "registration." You cannot conscript unless you register. If they talked the way they said, they would not be talking about anything. Now, gentlemen of the jury, we are not compelled to rely on their speeches even in the court room. There is more corroboration here. They argue to you so glibly that Schue's testimony is uncorroborated and that you have to view the testimony of one who is an accomplice with a great deal of suspicion and all of that sort of thing. And the Court will charge you that the weight of this testimony is with you. You can believe whom you want and you may disbelieve what you want. You can accept all or any part of any one's and reject all or any part of any witness' testimony. Schue is absolutely corroborated in every particular that is necessary in order to return a verdict of guilty in this case.

They say that because we cannot produce witnesses that are able to go in Schue's mind and tell what operated on his brain and made him do this thing, that, therefore,

Schue is uncorroborated. That is what they argued to you. Not only that, but they say that because this boy went on the Public Square and cannot tell whom he saw there, therefore he was not there. That is the silliest kind of drivel. There is no doubt but what Schue was on the Square on both of those days. There is absolutely no doubt about it at all. Let us see what the boy says about it, and, I say to you, gentlemen of the jury, that the story told by Schue and the story put on this witness stand by the Government is a logical, connected story from start to finish, corroborated in all its essential particulars, and a story that is to be believed. Now, let us see what Schue testified to.

Schue said he was twenty-three.

Q. "When did you learn of this conscription law?"

A. "I read about the law in the paper.

"I would certainly have registered if I had not heard about these socialist peace meetings."

Q. "Do you recall the names of the men who spoke on the 20th of May, 1917 on the Public Square?"

A. I know Baker spoke."

Q. "Now, do you recall what Baker said on the 20th of May, 1917, in substance, Mr. Schue, in that speech?"

A. He said he is of military age and he would refuse to register."

"And he told about the standpoint of the Socialist party, the way they voted against conscription, and that it was taken by the local here that all Socialists would refuse to register."

Now, do you think what Schue is telling you is the truth about that, or do you think he is lying?

Wagenknecht printed these circulars with 1291 Cook Avenue, Lakewood, on them, and he sent them out over

the country: "Refuse to register for conscription." This resolution was not passed until the 13th day of May, and the law went into effect on the 18th day of May. Here is the king-pin of the bunch sending out these circulars after the 13th of May, and on the 20th of May Schue said that Baker made this speech. Schue never saw this circular. What does it say? "We recommend to and urge all members of the party and the workers generally that they refuse to register for conscription." Where did they get this stuff? They say they just went up to the scratch, and when the law was passed we quit, and then after that they spoke about conscription but did not say anything against registration.

You and I, gentlemen of the jury, know that we do not have to dodge around so that we will not get into jail. Honest men do not do that. They have their head up in the air. They go along and say what they have to say. They do not say one thing one day and then because a law is passed the next time say a little less. They do not go on the witness stand and say that they sent these out before the 18th of May and stopped at the 18th of May. Honest men do not have to go on the witness stand and say: "We always watch the police and reporters so that they do not get anything on us." It is these fellows who are law violators. They are the fellows who watch the police and watch the officers.

These men assume to be patriots, act as though the world was persecuting them or something. That they are low-down law violators is established by this evidence. The testimony shows it and there can be no doubt about it.

Q. "Do you recall anything else that Baker said on that day?"

A. He said he would refuse to register, him being of military age."

Baker said: "I said I would die and be riddled with bullets before I would go to the trenches in Europe." That

is close enough. I do not care whether he said "conscription" or "registration."

This is as good a place as any to say, gentlemen of the jury, that the Socialist party is not on trial. Our government is the organized society of the United States of America. Our government is made up of three branches—executive, legislative, and judicial—and our government derives all of its just powers with the consent of the governed. That is our Constitution. Our Congress passed this law for registration and conscription. That is the law of this land. It is not your business, it is not my business, and it is not their business to advocate a violation of that law. That is the situation. It is not the "ruling class," as they said on the witness stand and so glibly hand to you, that created this law, under which the government will take our boys and send them over into the trenches of Europe—not the "ruling class" but your neighbors, the men who sit in the Congress of the United States, who said that this war shall be to preserve democracy for the world, to give these people the very thing that they have been harping about here in all of their meetings. That is the situation here.

Now, let us see what Schue says about this conscription. He says:

Q. "What did Max Hayes say?"

A. About this conscription, Max says as it is the law, now you have got to abide by the law and the only way to show you are against the law is at the time the election comes around, to throw these people out who voted for this law."

What does Wagenknecht say? He says Hayes don't represent the Socialist party. If he was not speaking against registration for conscription, why did he differ from Max Hayes when Max Hayes says: "We must obey this law and register for conscription"? There cannot be any doubt about it, gentlemen, and the man not only committed perjury here in your presence, lied about the testimony, lied

about what he said on that subject, but he pulled it off on this other proposition, and I might as well call your attention to it now.

He says he did not send out any of these circulars after the 18th day of May. Here is a copy of his letter. "Lakewood, Ohio, May 25, 1917. Postmaster, East Palestine, Ohio. About a week ago two packages of printed matter were addressed to the East Palestine post office in the name of A. A. Hennacy, General Delivery. Mr. Hennacy informs us that he only received one package and that it had been opened. I write you now to request that you forward the other package in your possession to A. A. Hennacy, General Delivery, Martins Ferry, Ohio." Isn't he circulating these things on the 25th day of May when he writes the postmaster down there to forward these to Hennacy, who was circulator of this literature? The difference between the 18th of May and the 25th is seven days, and seven days after the law was passed, over his own signature, he is having these things circulated here, these circulars: "Down With Conscription. Refuse to register for conscription," and yet he has the face and the nerve to come into the court and take that witness stand and pose as a martyr for his cause. He is a perjurer. He is no martyr. He is a traitor to his country. He is a law violator and the testimony shows it, gentlemen of the jury, and I believe that you will agree with me in all of my statements.

Now, I will go on a little with what this boy Schue says. Wagenknecht was the next speaker and Wagenknecht said:

"If I would register I would be taking the chance of being drafted, being sent to the trenches, they could do with me just the way they wanted, set the Constitution aside, which gives a man the right of freedom; but by refusing I could stand up like a man and say at last to the capitalists that the working man at last had something to say here too."

"Do you recall what Ruthenberg said in his speech to you?

A. He said if he was of military age and if he was asked to go he would rather have his body riddled with bullets than submit to this here registration."

Ruthenberg said on the witness stand that he would sooner be shot than go over there and do his duty as a citizen of this country. They come here from foreign countries, they take all of our privileges, as Ruthenberg did—

Mr. Sharts: If your Honor please, Ruthenberg was born in this city, as the testimony shows.

Mr. Wertz: I beg your pardon. I made a mistake, gentlemen of the jury. I had Wagenknecht in mind.

"He said he would rather, if the members all stick, they would rather all go to jail than to submit to this here law."

"That the newspapers are all just like manufactured from one factory, that everything is just the same and it is hard for us to believe anything that we are being told by them."

Gentlemen of the jury, there cannot be any doubt at all but what Schue was influenced, as he testified, by these men.

Now, the time is passing and I cannot take this testimony up in detail, but you remember the testimony of Mr. Lind, who testified to what Baker said there. Lind said that Baker said that he would not register and that he would be shot before he would register, on the 20th day of May, and they come in here and they complain because we did not have any stenographer over there on the 20th day of May to take down Baker's speech, and because we only had one there on the 27th and because these men were all not arrested on the 27th day of May. It was a long time, the record shows here, before Schue was arrested. As long as nobody was aided and induced to violate that law

by what these men said, they had the right to go there probably and say it, so far as the criminal law was concerned, but the moment a man was produced who was influenced by their arguments to violate that law, then they became law violators and that is the reason they are brought into this court. On the 20th day of May there was no testimony that any individual who heard Baker make his speech had violated this law, but when Schue was found then the man was unearthed who was influenced by their conduct, and they were responsible for his law violation. That is the reason.

Now, there is the testimony not only of Lind but you have the testimony of the policeman, who substantiates the same thing that Lind and Schue did about what Baker said over there. Not only, but we have the testimony on the 27th of Farasey, the stenographer. Now, they seem to have used a good bit of argument to show that Farasey was not reliable. Why, gentlemen of the jury, the testimony is that Farasey is a court stenographer in this city. He takes testimony in courts of justice, like this man here who takes the testimony in all these trials, and that man is so proficient that he said at various times he had been employed by six or seven detective agencies to take testimony for them, and he was so proficient, gentlemen of the jury, that the Department of Justice of this government, as it appears in this testimony, employed Mr. Farasey to go over there and take the testimony of these men on that Sunday. Now, they say that because there was some corrections in his notes, therefore you cannot believe them. That is the best evidence in the world that his shorthand notes can be believed. If this man had run his story right along with no corrections when he was being jostled around in the crowd, you might have thought there was something wrong about it, but here is a man who is honest enough, when he gets a word down that is not correct, that he scratches it out, that he corrects it, and he comes in here

and gives you the correct translation of what he took in his shorthand notes. In our courts of justice, where cases are carried to courts of appeal, rights to life and property are determined by the work of men like Farasey. It is absolute foolishness to say that Farasey did not give a correct transcription of what took place there, and Farasey is corroborated by these men. He is corroborated by Lind, who was there up until the time Wagenknecht was arrested. He is corroborated by Schue. I think Stucky testified to part of that, if I remember my notes correctly, and, above all, gentlemen of the jury, this stenographer is corroborated by the entire conduct of these defendants. That is the best corroboration.

They started out along this line on the 13th of May. Is there any change at all until after Wagenknecht is pulled off of the stand under arrest? Has not all the testimony of the government shown that they did not depart one iota from the conduct they prescribed here and laid down up until the time Wagenknecht was arrested? That is the best corroboration that Farasey has a correct report of what was said over there. You do not need anything better than that. Now, what does he say:

"Comrade Hayes has given you his version of this question of conscription. It happens, however, that our friend Hayes' version does not quite agree with the official action of the Socialist party."

Now, Wagenknecht, to get away from this, says that they were not talking about the conscription proposition, that they were talking about something that Hayes said because the Socialist party was a little, weak party. Well, Hayes could represent a little, weak party as well as he could represent a large, strong party couldn't he? It shows Wagenknecht on the witness stand is lying about this transaction. Instead of being a patriot, he is committing perjury on this witness stand, if I understand the effect of testimony and evidence, and I believe I do to some extent.

"Comrade Hayes has given you his version of this question of conscription. It happens, however, that our friend Hayes' version does not quite agree with the official action of the Socialist party." "The Socialist party has taken a very definite and decided stand upon this matter of registration for conscription. The national convention of the Socialist party went on record and declared that it shall be the duty of every dues-paying member of Socialist party to fight and fight and fight and fight until there is no more fight left in them against conscription whenever and wherever he can."

There you are. You have got the whole proposition of just what they said here.

Where else do we find the corroboration in this testimony? You had before you the young soldier boy who went out to this meeting on Sunday afternoon, the 13th of May, and procured a copy of these resolutions and what does he say? This young man says that Wagenknecht and Ruthenberg were there and were on the platform and that Ruthenberg handed to him this resolution. Ruthenberg, the one who has so much to say about the "ruling class" declaring this war. Ruthenberg handed him this resolution. Ruthenberg says he did not. He has to get away from it. They all try to get away from it, even to saying that they did not use it at all after the 18th, because the connection is so strong, because when they start in this chain of circumstances there is no interruption until one of them is pulled off over there under arrest.

What does Bacon say about it, the boy who laid down his pencil, took an oath to his country and put on his uniform to preserve these institutions for us and those who will come after us? Would you take his word in preference to that of these defendants? What do you say, as men who come from among the people? Would you take the word of the soldier boy, who has given his oath to his country, to lay his life on its altar, if necessary, to preserve

not only our institutions but freedom and democracy for the world, in preference to these who seek to stab our people in the back, after we have nourished them and let them alone here and enjoy our institutions, because they did not annoy and because they did no substantial wrong. Bacon says that Ruthenberg handed him that resolution. I believe Bacon.

What do they say about this? Ruthenberg says he pulled this circular down on that date, the 13th. I do not care if he did, and I do not believe him at that. If he pulled it down, it was because it was put up by the anti-militarist league. He handed that resolution to Bacon to take down to his newspaper and put it in. Is he in this crime? He is in here up to his eyes and there is no way for him to get away from it.

Here is the resolution he says he wrote at St. Louis:
"We pledge ourselves to continuous efforts for the repeal of such laws and to the support of all mass movements in opposition to conscription."

Not mass movements to repeal the conscription law. Ruthenberg writes that in the platform out at St. Louis. Opposition to what? To the laws of your country and my country. Those laws are made on the books. We are sworn here in this office to support the Constitution and defend these laws. You, gentlemen of the jury, are on this jury to do your duty in cases of this kind and find verdicts on the evidence and on the law. That is your duty in this case. I have shown you the logic of these facts. The thing started in the St. Louis convention in Ruthenberg's mind, where he wrote "all mass movements against conscription," and the next step was on the 13th of May when they passed this resolution when Ruthenberg was there, and the next step was on the 20th on the Public Square, when Baker drifts into town and pulls off this silly drivel in front of a lot of young boys, whose minds had not been formed as to whether they would be law violators or whether

they would not, and the next thing is on the 27th, when they pulled Wagenknecht off the stand. And what were they doing around there when they pulled him off? There were three old soldiers there who had offered to lay down their lives on the altar of their country to preserve our institutions, and these courts of justice, so that we could grow up and work out our existence and work out our happiness—these three old men, who were helping over there with their fives and drums to get these young men to enlist to preserve these institutions and the democracy of the world, and these who were opposed to that were talking down the old men that were trying to get the soldiers. Can you beat it? Patriotism? Why, what do they care for this country?

Now, they have offered character testimony here, gentlemen of the jury. You and I know about character testimony. These men who testified here said these fellows had worked for them and they thought they were pretty good fellows, or one of them did. They offered character testimony for Ruthenberg, and what did the last man say who was on the witness stand, his last employer? "We discharged him because we could not harbor him under the same roof." That is the testimony. A business house discharging him because they would not harbor him under the same roof. And he comes into a court of justice and asks you men to uphold him in his violation of the law that they pulled off here on the 20th and 27th, when his own employer will not harbor him under the same roof. Does he say why? Because he held an expressed view in opposition to the laws of his country. That is the reason they discharged him. I don't care whether he is a fanatic, whether he is misguided, whether he is honest or whether he is not. He is a law violator. He is a deliberate law violator and the testimony shows it. He lied on this witness stand if I am any judge of this testimony. This character testimony don't amount to anything anyway. You

know that. You know that when Cassie Chadwick came into this court and up to the time when she was arrested—

The Court: Mr. District Attorney, I do not think the Court or jury are entitled to take judicial notice of the existence of that trial.

Mr. Wertz: Character testimony don't amount to anything in this case. I don't care whether he is honest or whether he is not. The testimony shows that he violated this law.

Now, gentlemen of the jury, in closing I want to say to you that it is unfortunate, in my judgment that we are compelled at a time like this to give the publicity even to a case such as this. It will soon be the noon hour, the Court will charge you after that, and by evening you will have returned to your homes. To-morrow is the Sabbath and you will gather probably, all of you, in your respective places of worship and thank your Creator and your God that you have had life for another week and that all the blessings that you have had have come from Him. Gentlemen of the jury, I do not believe that you need regret that you have reached the time in life when you are unable to stand with young Bacon with your rifle on your back to uphold the honor of your country, to protect its institutions and to give democracy to the world, but, rather, I think you ought to add an additional prayer of thankfulness to your Creator that you have reached such mature years that you had the opportunity to sit on this jury and render to your country a far greater service than even young Bacon can render his country by going to war, and that is, by your verdict in this case. Strike down this viper brood that is striking at the laws of your country. Strike them down in no uncertain terms, so that the country will know that in Cleveland, in the Northern District of Ohio, we still love the old flag and the institutions of our country, and that we are going to do anything that is necessary within the law to

protect those institutions. Gentlemen of the jury, I thank you for your consideration and courtesy and your patience which you have exhibited in the trial of this case.

ARGUMENT BY MR. JOSEPH W. SHARTS

Attorney for the Defense

Mr. Sharts: If your Honor please, and gentlemen of the jury. There are times when the sense of responsibility that falls upon my shoulders becomes too heavy. I know that I am to speak the last word for these men. I know that I have never spoken in a case where I have more profoundly felt with the men that I have defended, and I say that as an old soldier. A government that is a government with the consent of the governed has no fear of words.

It comes to my mind that there is a play by Charles Rand Kennedy, an English writer, entitled: "The Terrible Meek." In that play, which is one of the most peculiar, the curtain rises upon a scene of complete darkness, nothing at all visible. In that darkness voices can be heard. There is the voice of a mother, weeping over the body of her son. It is the voice of a London mother talking in the dialect of the London slums. There is heard the voice of a British soldier, talking in the slang of London, apparently there on guard. And, mingled with these voices and talking with them is the voice of another man, evidently a more educated man and the officer in charge. And, while they talk, the light gradually increases. You begin faintly to see the objects appearing upon the stage, but, before the audience can understand just what the scene is to be, these words occur: the British soldier, speaking of this man who has been put to death says: "Seems a bit orf that a bloke should come to this just for saying a few words." And the officer replies: "There is great power in words. Every-

thing that gets done in the world, either good or bad, is done by words." And the light broadens, and slowly the picture of a cross appears, and on that cross is seen the figure of the Saviour, and, at its foot, Mary, the mother. The British soldier is a Roman soldier on guard and the officer the centurion in charge.

The same old struggle goes on continually through the world. This is not a new trial. Every generation, every age of the world has witnessed this trial. The penalty that men have paid in every age for a vision of the future that is broader and better than that in which they live, for thinking too far in advance of their fellow men who cannot understand them—the penalty has always been the pillory and prison, the fagot and the stick, the gallows and the cross.

It appears on the wall of this courtroom that they have endeavored to represent by a magnificent painting the source and origin of law, the very law under which you sit, the very law by which you are supposed to be guided. And I observe that on that wall, high above the head of the judge, there appear the tables of stone with the law of Moses, and I behold an angelic figure pointing to a particular one: "Thou shalt not kill." If you, gentlemen of the jury, sitting here, hearing this evidence, where men have been perhaps too literally devoted to that law, can condemn them, you had better tear down that painting from the wall, because you will have made a mockery of it.

What have these men said? They have voiced their protest against war. They have voiced their protest against this war. You know it is easy for men in time of peace to say: "I do not believe in war." It is not so hard, when there is nobody with any particular reason for objecting to your statements, to get up in the pulpit or up on the platform and say: "I believe in peace." But, when the concrete fact comes, when war is declared and all of the newspapers and all of the politicians are one in advocating that this war is

a just war, it is not the coward who still sticks to his convictions. I have carried a gun behind the fluttering flag and the boisterous drum and marched out in the days of my youth to defend that flag that the Assistant District Attorney so eloquently referred to, and I love it—I love it as much as he—and I have proved my devotion, but I want to tell you that I never fought for that flag half so hard as I am willing to fight now to protect the free institutions of this land. It is not by waving the flag that we show our patriotism and it is not the truest patriots that necessarily favor war.

If every man that opposed what he believed to be an unjust war were sent to prison for it, there would be one peculiar figure wearing the prison stripes in the history of this land. I mean Abraham Lincoln. In 1848, perhaps some of the older men among you may remember, we had a war with Mexico for the extension of the slave power, and those who in the North were opposed to slavery were opposed to that war. Abraham Lincoln was in Congress at that time, a Congressman from Illinois, and he opposed that war. He opposed it, so that he was branded as disloyal, and it clung to him for ten years, and, in his debate with Stephen A. Douglas in Illinois, in Ottawa, in the first speech of the debate, Senator Douglas accused him of it, saying that he had taken the side of the common enemy against his own people—almost the language you have heard to-day. He reiterated—denying the charge of disloyalty—he said this: “Whenever the Democratic party tried to get me to vote that the war had been righteously begun by the President, I would not do it. A true patriot will maintain his convictions in war and in peace.” And I say that God bless the man in any generation, in any age of the world, that has the courage to stand up for his convictions.

It is not for us in this court room, if we do not believe with them, on all things that they maintain—it is not for

us to throw them into jail for going against the majority. Every good thing in this world has been obtained by minorities.

In those days before our civil war there were people in the land very much regarded as these Socialists are to-day—the abolitionists. They were a disreputable set, in the view of some of the respectable elements of the community. There was a Fugitive Slave Act passed, which required that any man in the North finding a runaway slave was compelled to restore him to his master, and those abolitionists, law abiding men though they were, were brought face to face with a fearful dilemma. If they obeyed the law, as they wished to do, they had to face their conscience sooner or later, and they protested against that law on every street corner. As a consequence of their protest they were mobbed. William Lloyd Garrison in Boston was dragged by a rope in the hands of a respectable mob, not the so-called mob, not the ragged mob that you hear about, but the newspaper, journalist, politician mob—the Pharisee mob that hung Jesus. Owen Lovejoy was hung, he was lynched, his printing press was destroyed, and that old ancestor of mine, John Brown, they took him out and hung him because he had overridden the law, gone too far. There is no more dramatic spectacle in the history of the world than that group of insignificant people, of the lower orders of life, struggling for the principle of truth and justice and liberty against the sentiment of the great mass of the community until at last their principles were triumphant and now their names shine like stars in our American history and the names of those that decried them and mobbed them and sent them to prison have gone down into the dust of infamy.

This is not a new trial. It is just as old as progress. It is just as old as civilization and religion, and it will continue, and it is on such evidence as this that abolitionists went to jail—speeches made upon the street corners voicing

their protest against the law they deemed unjust. Some ignorant man in the crowd, with no conception of that higher plane of thought on which they dwelt, with no intelligence to discriminate in their language, in those days would testify that they had said things they never meant and did not stand for.

Take this man Schue—a figure in criminal trials as old as Judas, who has always appeared, the man who comes in as a confessed criminal in order to clear his own skirts, turns State's evidence, and with the grip of the District Attorney upon his neck, tells whatever he thinks will serve the purpose and get him free. The Court will undoubtedly instruct you in his charge that the testimony of such a man must be viewed with the greatest caution and care. He is not a free agent, so to speak. And notice that this unknown quantity, this mysterious man, who gives us only his own word that he was there and cannot bring one witness to the fact, which is the all-important fact at last—that he really was there—this man stands before you without one testimonial as to his character and he has lived here all his life, was born here.

Mr. Wertz: If the Court please, I object to that kind of argument.

The Court: I am of opinion, Mr. Sharts, that that is not proper comment. I do not understand that the State, in order to sustain or to give credit to the testimony of a witness must produce or is permitted to bring forward testimony as to his character.

Mr. Sharts: I wish to apologize if I have gone too far.

The Court: I accept counsel's apology, because I have always found him during this trial to conform to the proprieties.

Mr. Sharts: On what does the Government rest its case? The unsupported word of Mr. Schue that he was there. Upon that word you are asked to condemn those

three men. I want to show you—I think I can do it satisfactorily—that contrary to Mr. Schue's statement we have the silent testimony of fifty policemen more or less. I think I can show you that we have the silent testimony of the police prosecutor, Mr. Lind, at least as to Mr. Ruthenberg. If you have noticed the limitations of the evidence of the prosecutor here, you have noticed that they have put the police prosecutor on to testify and he said he had been present at Baker's meeting and had not caused his arrest; he had been present at Wagenknecht's and Ruthenberg's meeting; had heard them both, and had caused the arrest only of Mr. Wagenknecht. He was not asked what Mr. Ruthenberg said. What is the inference? If he had had one shred of testimony to corroborate Mr. Schue, if that man, with his trained legal mind, listening to Mr. Ruthenberg, had heard him overstep the law, would he have been limited in his testimony simply to what Mr. Wagenknecht said? I will call another silent witness in support of these defendants, Mr. Stucky, the police officer. You will remember he testified that he was present on May 20th and heard Baker; he was also present, he said, on May 27th, when Ruthenberg and Wagenknecht spoke. He was not questioned on their testimony and on their speeches. What is the inference? If he had had one shred of testimony to offer out of their speeches corroborating what Mr. Schue claims they said, that testimony would have been brought out upon the stand, and I want you to remember that this same police officer, when he was questioned about Baker, was asked, at the close: "Did Baker advise any one to register or not to register?" "He did not." I ask you to remember the testimony showed that place was thick with police officers, twenty, thirty, possibly fifty police officers were on the Square at both meetings. If any one of those police officers had had the testimony to offer that would have supported the Government's case, do you doubt but that they would have been here and would have been

offered as witnesses and would have told what they heard? There was not one. I remind you that in that crowd of 2,000 that listened to Mr. Baker—1500 according to the estimate of the police officer—there appears only Mr. Schue. Where are the others that heard these sentiments? Is it possible that out of 2,000 people or, say, 1500, that listened to Mr. Baker on May 20th, this government of the United States, with its secret service agencies, with all the powers of raking the town with a fine tooth comb, with all the passions of the hour impelling men to come forward and protest against an appeal to violate the law at a time like this—is it possible that the government could not find one who heard them say that they should not register or advised or counseled or commanded them not to register? I claim that the 2,000 who are said to have heard and who are not here must be taken into account by you when you consider the credibility of the man who says that they did say these things. If one man out of a crowd of 2,000 says that a man said a certain thing that incited to disorder and lawlessness and the others of that 2,000 came away with no such impression, what conclusion must we reach? That the man was either half-witted, or that he went there for the purpose of hearing of that sort.

I want to remind you that every witness as to what was said by Baker or by Wagenknecht or by Ruthenberg was one who went there for the purpose of getting that testimony on them. Old Dr. Samuel Johnson was once questioned by a lady about his dictionary. She said: "Doctor, I cannot read your dictionary. It has so many indecent words in it." He says: "Ah, madam, you must have been looking for those words." When a man comes to a place for the purpose of getting a certain bit of evidence against a man, he is going to find something to support his belief on that subject. If I go to a church for the purpose of finding something filthy said, I care not what preacher used the words, I will find it; I will get something in the sermon

that I can twist and distort in my mind to the thing that I want to have had him say. There is no man with his mind fixed on getting a certain thing said from a speaker who cannot get that into his talk by some twist of his imagination, by some turn of his expressions. It is always done.

I want to remind you that the stenographer, when questioned as to his business connections, admitted that he is employed by private detective agencies. I want to remind you that a stenographer is not employed by private detective agencies simply to furnish an unprejudiced and truthful account of anything. Private detective agencies are not in the business for that purpose alone. They want the man to "deliver the goods" when they go out to get some evidence against a man for some action against him and they are not going to use a man who has any scruples. You saw me question that stenographer about his notes, how the assurance with which he began, leading you to believe that he had given an accurate account of these speeches, gradually subsided until at last, as he stepped from the stand, he apologized for the fact that his notes were in such disorder, that there were scribbles and screels upon them and erasures and crossings-out of phrases, and he said it was the most difficult job he had ever done; that some times his pen would not flow and he had to bend down; and he admitted that he had asked, once at least, what the speaker had said. If the man took the stand with the intention of making you believe that his account of that speech was perfect, was he altogether truthful?—knowing in his own mind that his pen had not flowed at some of the times, knowing in his own mind that he had been jostled continually, knowing in his own mind that he had turned to friends and asked at times what the speaker had said, admitting as he did, that at one place he had left something out and had made no record in his notes of that omission—you heard that. If that man took the stand and tried to create a first impression in your mind that it was perfect

and then admitted afterwards that it was not, are you to believe that his record was a truthful record and that a man hired for the purpose of going there and "getting the goods" on those men is such a credible witness that you can take his statement from his notes against their testimony as to what they said and what they meant to say and what their speeches were, to which they still adhere? Is it on testimony like that that you are going to send men to prison? Can you consider that you have given them a fair hearing when you can take these three men, announcing their principles clearly, steadily, without any change or variation from their program, repeating their set speeches that they have made at other times and with which they are familiar word for word? Can you say that men who can get up here on the stand, as those three men did, and tell you clearly what they stand for, what they mean to declare to the public, what they did declare on that occasion as on all others—that those men are mistaken in what they said and that this man Schue, who heard them for the first time, with a mind entirely unprepared for such statements was right and they are wrong?

(Recess).

Mr. Sharts: Gentlemen of the jury, in the few moments of recess I have been reading over this exhibit of the leaflet entitled: "Down With Conscription," which has been offered in evidence by the Government. I want to caution you, first of all, as the Court has cautioned you, that the introduction of this leaflet is not to show that these men aided, abetted, counseled, commanded, or procured Schue by means of this to refuse to register. It was introduced for one purpose only, namely, to show the intent of the men when they spoke. If men when they spoke were representing the sentiments of this resolution at the bottom of this leaflet, it would then be apparent that they were advocating a refusal to register. Now, that is all that this leaflet has to do with the case.

I want to remind you of the wording of this leaflet. In its own words it shows when it was put out. "The conscription law which the Wilson administration intends to put into effect." So it was not prepared after the conscription act but before it, and when Congress had not yet finally shaped that act, when there were debates on the floor of Congress as to what would be the form of conscription, and when, as Mr. Wagenknecht so clearly stated and, I think, recalled to the memories of all of you, and I think Mr. Ruthenberg also repeated it, the President had himself spoken of it in words that might be fairly interpreted to indicate a voluntary offering or registration of the young men of the nation.

I want to remind you that there was not even an attempt by the Government to show that Mr. Schue ever saw that leaflet, not even an attempt to show that he was influenced by any such leaflet, and these defendants, testifying as to their own position, clearly showed that the action was taken by that body at that time before the act had been passed and had been revoked before these speeches were made. And it is on that point, in fairness to these men, that you should lay the emphasis. A hasty action taken by a body of men over Ruthenberg's protest before the act was passed, a resolution there published or stated, which was revoked before Mr. Schue ever heard of it, and, in fact, Mr. Schue never having heard of it, and these three men taking a different view point of it at all times, and Mr. Ruthenberg in his objection to that kind of thing, plucking from the wall and throwing into the waste basket a similar circular gotten out by the Young Men's Anti-militarist League—whatever that is.

Now, I simply want to have you get clear in your minds the limitations of the admission of that sort of evidence, because I realize that when the government has the privilege of offering a thing like that for one very limited purpose, the mind of a juror is not the mind of a lawyer—he does

not draw distinctions, no matter how carefully the Court may be in instructing him—and he takes the thing by and large, he confuses more or less the sentiment of such leaflet with the sentiment expressed upon the platform by these men. There has been absolutely no evidence that these men attempted at any time to circulate those leaflets. There has been no effort on the part of the Government to show that they ever attempted to reach Mr. Schue or men like Mr. Schue with such a leaflet. I merely call your attention to that now because my time is so limited that I will probably not be able to touch upon most of the testimony in the case.

I want to call your attention to one remark, too, that was made by Mr. Breitenstein, that I think was unfair—the all-star oratory, and so forth. I have seldom listened to a more oratorical address than Mr. Breitenstein delivered to you. It is not his place, then, to sneer at the witnesses upon the stand who have delivered in their own defense at my request, the same speeches that they had made upon the Public Square. And he made another remark that I think I may correct with you. He said that we are now fighting for the things our fathers fought for and that these men are not the type of men that our forefathers were. Wait a minute. Every generation seems to have bred its own type of men who stand for the real and true things against the majority of their generation. I remember this that, in our American revolution the slogan was that governments exist by the consent of the governed, and that meant that in those days a draft act put through without the consent of the citizens would not have been approved or stood for. I want to remind you that our revolutionary forefathers, coming out of the revolution, wrote a Constitution for the United States in which they declared that the military shall be in strict subordination to the civil power. I want to remind you that the bill of rights which our revolutionary forefathers put in in the form of amend-

ments to the Constitution, providing free speaking and public assembly. They were building a government that would be founded upon the consent of the governed, and, because they were building it on that broad basis, they did not fear free speech. They were not afraid of the power of words. It is not until a government begins to fear that it is no longer founded upon the consent of the governed that it brings in these acts that are intended to curb and stifle free speech and send into the prisons the men who venture to criticise the law.

I say that these men are of the same breed as Abraham Lincoln, who opposed the Mexican war, of the abolitionists, who opposed the Fugitive Slave Law. I say that the day will come when these men and their activities in preserving the foundations of liberty on which this republic rests will gain their recognition. I hope that, when that day comes, we at least, who have been together for these few days in this court room, who have become more or less acquainted in the various episodes of this trial, who have come to know each other a little bit and will soon pass out to meet no more forever, that we can look back upon this more as a pleasant incident than an unpleasant one, that we can feel that at least there was inflicted on these men no wrong at our hands. If they have, in their advocating "Thou shalt not kill," gone to the extreme, they have in no sense intended that any man listening to their words should draw the inference that they were law breakers. They are not the type of men you make law breakers out of.

And, as the District Attorney closed his remarks with the words of Christ, I think I might venture to do the same. It was Jesus who used such expressions as these: "Blessed are the peacemakers." What are these men? It was Jesus who said: "They who take the sword shall perish by the sword." What have these men said? If he ventures to use the words of Jesus as urging you to condemn these men, I want to remind you that if Jesus, the Son of the

carpenter, stood upon the rostrum in the Public Square when these men were speaking and had delivered there his sermon on the Mount. He would have been voicing in other words the very same principles for which these men stand—brotherhood and peace and the abolition of war—and if he had dared to voice those principles of the sermon on the Mount on the Public Square at Cleveland on May 20th or May 27th, and there declared that he would not murder his brother men, he would have stood before you even as these men, and it would have been your part as jurors to have passed upon whether or not he had urged others to violate the law.

Now, gentlemen of the jury, strange things happen in the world. The old things that we think are established, the things that we believe in in our youth, often under the acid test of time become changed, they crumble to ruin and gradually we come to see that the things that we thought were right when we were young were, after all, wrong, and the things that we thought were wrong and that we condemned in our youth had in them that vital spark of truth that the world needs and that is leading the world onward into the light.

I do not think there is one of us who is so sure that we are right in our political principles that we cannot listen with patience and broad-mindedness to the appeals of men who have got a vision and a gleam that is beyond and above this world of strife between men. I do not think there is one of us who would make the remark that was made by one juror that we excused, that he had no time to listen to such things. It is well for us to be a little humble in our inherited beliefs because, as the world goes on, one after another of those old beliefs that were good enough for our day and generation and the generation before begins to change and turn a new face toward the world, and that is the way that progress comes, and there must always be a few men of courage—and let me tell you, it takes courage.

It is an easy courage to shoulder a gun. I have done that. But I want to tell you it is not such an easy courage to get up and express a sentiment, a conviction, a belief in peace and brotherhood, at a time when the world is at war. It is not an easy thing, with fifty policemen around you, eager and waiting for an opportunity to catch you napping, to catch you by some unguarded expression and charge you with attempting to incite a riot or attempting to urge people to violate the law—it is not an easy thing to get up and make a speech in which you still adhere to your convictions.

If these men, for what they have said, for what they have tried to say, in this time, have got to go to prison, I for my part would rather take my place with them in that station of honor than to walk the streets at liberty with you, because I believe that these men have not transgressed the law. I believe that these men have uttered a message that they had a right to utter, and there are no politicians in Washington that can suppress their criticism lawfully. They have called attention time and again in their speeches to the thirteenth amendment to the Constitution. They are not lawbreakers. They are using the ancient laws of this land which they stand for. They are adhering to them as their principles and convictions, and if they uttered any expression, which we deny, that could by any implication be intended for or expected to create in the mind of a man the impression that he was not to register, I say it was unintentional and exactly the opposite of what they were urging.

Notice the difficulties that confronted these men in voicing their opposition to war and conscription. They were trying to make the public understand what their objection to law was in order to urge its repeal. They had to discuss the law in order that the public might understand what the law was. How else could they say it than they did, if they referred to registration? They say: "This

law is unjust. If you obey it, you may have to shoot down your brother men and if you disobey it, you go to jail." Is that telling people to go to jail? Is that advising them to go to jail? It is enlightening them upon the law.

Now, gentlemen of the jury, my time has about expired. I feel I have expressed here only inadequately, only roughly, what I should have said, that there are points in this case that I should have discussed with you, there are bits of evidence that perhaps are sticking in your minds that perhaps I should have dwelt upon. The trouble is that I am of a slow tongue and of a faltering mind in a situation like this. If I have omitted anything, if there are points in this evidence I have not explained, due to my limited time and my limitations, when you pass into your jury room use that patience, that broad-mindedness, that kindness of spirit, that desire to view the deeds of men in the best light that I believe each one of you will do, and, if you do, I am sure that these men for what they have said will suffer no wrong at your hands. I thank you all.

"AND I SENTENCE YOU"

"And I sentence you each to one year in the prison at Canton, Ohio."—Judge Westenhaver.

Ten o'clock in the morning of Wednesday, July 25, 1917.

The year 1917—the year the United States entered the world war.

Three prisoners stood before the Federal Court awaiting sentence. And when the judge spoke he said: "I sentence you."

And although the judge spoke the words it was capitalism that sat in judgment and declared us guilty. And guilty of what?

Guilty of making war upon war. Guilty of defending the working class in its right to have a voice in its own

slaughter. Guilty of voicing opposition to conscription, the most despicable form of slavery.

And it was capitalism and not the judge that sentenced us. For capitalism rules. The tentacles of this giant octopus, covering every corner of the nation, thru environment, publicity, police, legislative and judicial powers, jealously guards its interests so that it may continue its blood sucking without let or hindrance.

The world war is capitalism's legitimate child. It was born from the womb of capitalism—a womb filled to bursting with the products of labor. And now that the war is upon us, capitalism must juggle millions of lives and billions in wealth for its own safety.

And it can not have its safety impaired by any spoken or written words against its bloody program. Free Americans are free no more. Men and women who otherwise were wont to say what they thought have been hounded into silence; have been whipped into inactivity.

Only the Socialist speaks out. And it is because he has spoken that the prison gates are beginning to swing on their hinges. More than three hundred soldiers of the Social Revolution are today, in this land of the free, either serving or preparing to serve jail sentences, only because in one way or another, they made a determined stand against war.

We unflinchingly face prisonward. Far beyond the prison we see the Socialist Republic, peopled with care-free, happy men, women and children. We unhesitatingly step prisonward because we know our incarceration but constitutes part of the rope with which capitalism is going to hang itself.

There's no fear of prison written on the face of sentenced Socialists. Don't I know? Haven't I seen them sentenced and walk from the judge with smiles upon their faces—smiles from set jaws that portend no good for the ruling class!

In a day, the "under dogs" of Russia became the rulers of the land. In a day the over-burdened, over-worked, bent Russian straightened up, cast the parasites from his back, took a deep breath and said: "This is my Russia."

But the ruling classes of other lands learn nothing from this. Nor does the capitalist class of the United States. Nor is it expected to; nor can it. All it can do is to bolster up its own iniquities; attempt a new lease of life; stumble on until it has fallen in the grave it is digging for itself.

We know this—we Socialists. We know of the impending change. We know that capitalism is fashioning the hempen rope, will act as its own hangman, its own embalmer, its own grave digger. We know this and work on and take prison sentences the world over.

This is capitalism's war. A war to safeguard its dirty dollars. And millions of lives have been blasted in the sanguine grind of powder, shot and shell upon the quivering flesh of our fellow workers.

We spoke out against this hellish slaughter.

We demanded that the murder of the workers stop at once.

We were indicted, arrested, found guilty and sentenced for this.

"A year in jail." It's a long time to be away from family and friends, but it's an insignificant sacrifice to make for the millions already murdered in capitalism's war; for the millions more that may be forced to die for capitalism's profits; for the Industrial Democracy which will soon be with us.

Only a year in jail! We gladly make the sacrifice. It is about the least we can do as our part in the work of freeing the workers from their masters and murderers.

A. WAGENKNECHT.

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